FEDERAL REGISTER

VOLUME 18 NUMBER 137

Washington, Wednesday, July 15, 1953

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10469

AMENDING THE SELECTIVE SERVICE REGULATIONS

By virtue of the authority vested in me by Title I of the Universal Military Training and Service Act (62 Stat. 604), as amended, I hereby prescribe the following amendments of the Selective Service Regulations prescribed by Executive Orders No. 10292 of September 25, 1951, No. 10363 of June 17, 1952, and No. 10420 of December 17, 1952, and constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations:

1. Paragraph (a) of § 1622.30 of Part 1622, *Classification Rules and Principles*, is amended to read as follows:

(a) In Class III–A shall be placed any registrant who prior to August 25, 1953, has submitted evidence to the local board which establishes to the satisfaction of the local board that he has a child or children with whom he maintains a bona fide family relationship in their home. Such a registrant shall remain eligible for Class III–A so long as he maintains a bona fide family relationship with such child or children in their home.

2. Subparagraph (2) of paragraph (c) of § 1622.30 is amended to read as follows:

(2) No registrant shall be placed in Class III–A under paragraph (a) of this section because he has a child which is not yet born unless prior to August 25, 1953, and prior to the time the local board mails him an order to report for induction which is not subsequently cancelled for a reason not related to the filing of the certificate hereinafter mentioned, there is filed with the local board the certificate of a licensed physician stating that the child has been conceived, the probable date of its delivery, and the evidence upon which his positive diagnosis of pregnancy is based.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
July 11, 1953.

[F. R. Doc. 53-6273; Filed, July 13, 1953; 2:57 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

NATIONAL SECURITY COUNCIL

Effective upon publication in the FEDERAL REGISTER, § 6.116 (a) is amended to read as follows:

§ 6.116 *National Security Council.* (a) All postions on the staff of the Council.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-6245; Filed, July 14, 1953; 8:51 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, § 6.103 (b) (1) and (2) (c) (f), (2), and (j) are revoked.

2. Effective upon publication in the FEDERAL REGISTER, the following positions are excepted from the competitive service under Schedule C.

§ 6.303 *Treasury Department*—(a) *Office of the Secretary.* (1) Five assistants to the Secretary.

(2) Two confidential assistants to the Secretary.

(3) One confidential assistant to the Under Secretary and each Assistant Secretary.

(4) One assistant to the Under Secretary.

(5) One assistant to the Secretary and Supervisor, Analysis Staff.

(6) One assistant to the Secretary (Legislative)

(7) One Head, Tax Analysis Staff.

(b) *Office of the Treasurer of the United States.* * * *

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

(2) One confidential assistant to the Treasurer of the United States.

(c) *Bureau of Customs.* (1) Commissioner of Customs.

(2) One confidential assistant to the Commissioner.

(d) *United States Savings Bonds Division.* (1) National Director.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-6236; Filed, July 14, 1953; 8:49 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, § 6.311 (a) (5) is amended to read as follows, and the positions listed below in paragraphs (f) (1) and (2) and (g) (1) and (2) of § 6.311 are excepted from the competitive service under Schedule C:

§ 6.311 *Department of Agriculture*—(a) *Office of the Secretary.* * * *

(5) Six confidential assistants to the Secretary.

* * * * *

(f) *Office of the Assistant Secretary (Commodity Marketing and Adjustment)* (1) One confidential assistant to the Assistant Secretary.

(2) One private secretary to the Assistant Secretary.

(g) *Office of the Assistant Secretary (Foreign Agricultural Service)* (1) One confidential assistant to the Assistant Secretary.

(2) One private secretary to the Assistant Secretary.

2. Effective upon publication in the FEDERAL REGISTER, the positions listed below are excepted from the competitive service under Schedule C:

§ 6.302 *State Department.* * * *

(b) *Bureau of Security and Consular Affairs.* * * *

(4) Assistant Administrator.

* * * * *

(d) *Office of the Assistant Secretary for Public Affairs.* (1) Assistant to the Assistant Secretary for Public Affairs.

§ 6.312 *Department of Commerce.* * * *

(d) *Office of the Under Secretary for Transportation.* (1) One advisor to the Under Secretary for Transportation.

§ 6.342 *Housing and Home Finance Agency*—(a) *Office of the Administrator* (1) One liaison officer.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-6235; Filed, July 14, 1953; 8:49 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

FEDERAL CIVIL DEFENSE ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, the following positions are excepted from the competitive service under Schedule C.

§ 6.357 *Federal Civil Defense Administration.* (a) One Executive Assistant Administrator.

(b) One Assistant Administrator.

(c) One Assistant to the Administrator.

(d) One Assistant Administrator, Field Relations; one Assistant Administrator, Civil Defense Planning Staff; one Assistant Administrator, Civil Defense Education Services; one Assistant Administrator, Civil Defense Operations Control Service; and one Assistant Administrator, Civil Defense Technical Advisory Service.

(e) Two Administrative Assistants to the Administrator.

(f) One Administrative Assistant to the Deputy Administrator.

(g) One Administrative Assistant to the Executive Assistant Administrator.

(h) One Secretary to the Assistant Administrator.

(i) One Secretary to Assistant Administrator, Field Relations.

(j) One General Counsel.

(k) One Chauffeur to the Administrator.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-6239; Filed, July 14, 1953; 8:50 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1953 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Dry Edible Beans]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1953-CROP DRY EDIBLE BEAN LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1953-crop of dry edible beans. The 1953 C. C. C. Grain Price Support Bulletin 1 (18 F. R. 1960, 3705), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1953, is supplemented as follows:

Sec.
601.76 Purpose.
601.77 Availability of price support.
601.78 Eligible beans.
601.79 Warehouse receipts.
601.80 Determination of quantity.
601.81 Determination of quality.
601.82 Credit for loss or damage.
601.83 Maturity of loans.
601.84 Delivery of beans to CCC.
601.85 Support rates.
601.86 Storage in transit.
601.87 Settlement.

AUTHORITY: §§ 601.76 to 601.87 issued under sec. 4, 62 Stat. 1070, as amended, 15 U. S. C. Sup., 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U. S. C. Sup. 714c; 7 U. S. C. Sup., 1447, 1421.

§ 601.76 *Purpose.* This subpart states additional specific regulations which, together with the general regulations contained in the 1953 C. C. C. Grain Price Support Bulletin 1 (18 F. R. 1960), apply to loans and purchase agreements under the 1953-Crop Dry Edible Bean Price Support Program.

§ 601.77 *Availability of price support*—(a) *Method of support.* Price support will be available through farm storage and warehouse-storage loans and through purchase agreements. Farm-storage loans will not be available to cooperative marketing associations of producers.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever beans of the eligible classes are grown in the continental United States, except that farm-storage loans will not be available in areas where the PMA State committee determines the beans cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support must be made at the office of the PMA county committee which keeps the farm-program records for the farm. An eligible cooperative marketing association of producers must make application at the PMA County committee office for the county in which the

principal place of business of the association is located.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1954, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer* (1) An eligible producer shall be any individual, partnership, association, corporation, or other legal entity producing eligible beans in 1953 as landowner, landlord, tenant or sharecropper.

(2) A cooperative marketing association of producers shall be deemed to be an eligible producer for warehouse-storage loans and purchase agreements on any class of eligible beans produced by eligible producer-members, provided (i) all beans of such class marketed or acquired by the association are produced by producer members; (ii) the producer members are bound by contract to market their beans of such class through the association and the association does not release any such beans for the purpose of permitting producer members to obtain individual price support loans or purchase agreements; (iii) the proceeds of the eligible beans marketed by the association are shared proportionately among the eligible producer-members according to the class, quality and quantity of such beans each delivers to the association; (iv) the association has authority to obtain a loan on the security of the beans and to give a lien thereon as well as authority to sell such beans.

(3) All determinations with respect to cooperative marketing associations of producers pursuant to this section shall be made by or under the direction of the PMA State committee.

§ 601.78 *Eligible beans.* At the time the beans are placed under loan or delivered under a purchase agreement, they must meet the following requirements:

(a) The beans must have been produced in the continental United States in 1953 by an eligible producer.

(b) The beneficial interest in the beans must be in the producer tendering the beans for loan or for delivery under a purchase agreement and must always have been in him or in him and a former producer whom he succeeded before the beans were harvested. In the case of cooperative marketing associations, the beneficial interest in the beans must have been in the producers who delivered the beans to the association and must always have been in them or in them and former producers whom they succeeded before the beans were harvested.

(c) The beans must be dry edible beans of the classes Pea, Medium White, Great Northern, Small White, Flat Small White, Pink, Small Red, Pinto, Red Kidney, Large Lima and Baby Lima.

(d) Beans placed under loan must contain not in excess of 16 percent moisture (or the warehouseman must guarantee delivery of beans containing not more than 16 percent moisture) and must (1) grade U. S. Choice Handpicked, U. S. Extra No. 1, U. S. No. 1, or U. S. No. 2, or (2) must be beans (hereinafter referred to as "thresher run" beans) which have not been commercially cleaned; which, after deduction of foreign material, contain not more than 8 percent of other defects, as these terms are defined in the United States Standards for Beans; which are not musty, moldy, sour, heating, hot, weevily, materially weathered, or otherwise of distinctly low quality and which do not have any commercially objectionable odor.

(e) Beans delivered under a purchase agreement must not contain in excess of 16 percent moisture and must grade U. S. Choice Handpicked, U. S. Extra No. 1, U. S. No. 1, or U. S. No. 2.

(f) If offered for a farm-storage loan, beans must have been stored for at least 30 days prior to inspection for measurement, sampling, and sealing, unless otherwise approved by the PMA State committee.

§ 601.79 *Warehouse receipts.* Warehouse receipts, representing beans in approved warehouse-storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements:

(a) Warehouse receipts must be issued in the name of the producer or cooperative marketing association, must be properly endorsed in blank so as to vest title in the holder, and must be issued by a warehouse approved by CCC under CCC Form 26, "Bean Storage Agreement" The receipts must be negotiable and must cover eligible beans actually in store in the warehouse.

(b) In order to be acceptable under the loan program, each warehouse receipt, or the accompanying supplemental certificate, must contain a statement that the beans are insured in accordance with CCC Form 28, "Bean Storage Agreement," and if such insurance was not effective as of the date of deposit of the beans in the warehouse, the warehouseman must certify as to the effective date of the insurance and that the beans are in the warehouse and undamaged. The insurance on commingled beans must be obtained by the warehouseman. Insurance on beans with respect to which the warehouseman does not guarantee quality (hereinafter called identity-preserved beans) must be obtained by either the producer or the warehouseman. If the insurance is obtained by the producer it must be assigned to the warehouseman, with the consent of the insurance company, before a loan will be made and the warehouseman must also certify that the insurance has been assigned to him with the consent of the insurance company. Insurance is not required in order for warehouse receipts to be purchased under the purchase agreement program.

(c) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show the gross and net weight of beans, the class, the moisture content and the grade or all grading factors used in the determination of the quality of the beans. For loan purposes a guarantee by the warehouseman on the receipt that the moisture content will not exceed 16 percent on delivery may be substituted for the actual moisture percentage.

(d) In the case of identity-preserved beans, the warehouse receipt shall show the lot number and number of bags in the lot, and the producer must execute the supplemental certificate and assume responsibility for the quantity and quality indicated thereon.

(e) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 601.84 (b).

§ 601.80 *Determination of quantity—*(a) *When loans are made on farm-storage or identity-preserved beans.* (1) At the time the loan is made the quantity of beans may be determined either by weight or, if stored in bulk, by measurement. Where the quantity is determined by measurement, 2.1 cubic feet shall constitute 100 pounds.

(2) In the case of bagged beans grading U. S. No. 2 or better, loans shall be made on the net weight of the lot or on a quantity determined by multiplying the number of bags by 100 pounds, whichever is less. In the case of other eligible beans, loans shall be made on the basis of the net weight of sound beans in the lot. Sound beans shall be beans free of dockage and other defects as defined in the United States Standards for Beans.

(3) If the beans are stored in sacks, a deduction of three-fourths pound per sack shall be made from the gross weight of sacked beans, except where the net weight is shown on the warehouse receipt.

(b) *At time of delivery.* (1) The quantity of beans delivered to CCC from other than an approved warehouse, or delivered in an approved warehouse as identity-preserved beans shall be determined on the basis of net weight and bag count at the point of delivery, in accordance with § 601.87 (c)

(2) The quantity of beans delivered to CCC in an approved warehouse where the warehouseman guarantees the quality and quantity shall be the net weight of beans specified on the warehouse receipt or supplemental certificate.

§ 601.81 *Determination of quality.* (a) The class, grade, moisture content and all quality factors shall be determined in accordance with the United States Standards for Beans. An inspection certificate issued by a licensed inspector is required on all farm-storage loans.

(b) Where quality is guaranteed by the warehouseman, the class and grade (including moisture content) delivered under a warehouse-storage loan or purchase agreement shall be that shown on the warehouse receipt. In all other cases the class, grade, and moisture content, shall be determined from a Federal or Federal-State inspection certificate, issued by or under the supervision of the Grain Branch, PMA.

§ 601.82 *Credit for loss or damage.* The amount to be credited to the producer for loss or damage assumed by CCC, in accordance with § 601.15 of 1953 C. C. C. Grain Price Support Bulletin 1, shall be determined by multiplying the number of hundredweight of sound beans lost or destroyed by the support rate for U. S. No. 2 beans of the class lost or destroyed, except that if the warehouse receipt or an official inspection

certificate covering the beans shows a grade of U. S. No. 2 or better, the amount credited shall be determined by multiplying the net weight of the beans lost or destroyed by the support rate for the class and grade of such beans.

§ 601.83 *Maturity of loans.* Loans mature on demand but not later than April 30, 1954.

§ 601.84 *Delivery of beans to CCC.* If the warehouse receipt represents beans not commercially cleaned and graded, the producer must arrange to resubmit warehouse receipts on cleaned, graded, and bagged beans at the time of delivery in accordance with instructions issued by the county committee. The following terms and conditions shall apply with respect to packaging and charges:

(a) *Packaging.* Unless otherwise approved by CCC beans must be packed 100 pounds net in bags equal to or better than new bags made of 36-inch, 10.4 ounce A or B quality common jute or heavier weight jute. If new bags are not available, beans may be packed in No. 1 used bags made of 36-inch, 10.4 ounce A or B quality jute or heavier, free of holes, patches, or other defects, satisfactory for the proper conservation of the product, and thoroughly cleaned before being filled. Bag seams must be sufficiently strong to develop the full strength of the cloth. Bags will be marked to show the commodity name and class; and the net weight when packed; and the name and address of the packer.

(b) *Charges.* (1) Storage, bagging, cleaning, inspection fees and all other charges (including cost of movement to normal railroad shipping point where the warehouse is not located on a railroad and receiving and loading-out charges, except at the warehouse in which delivery to CCC is made), incurred on beans up to the time of delivery to CCC, shall be paid by the producer prior to such delivery or shall be paid from the settlement value: *Provided, however* That on the quantity of eligible beans stored in an approved warehouse and delivered to CCC under a loan or purchase agreement, CCC will assume warehouse-storage charges (not in excess of those approved for the 1953 crop under CCC Form 28, "Bean Storage Agreement") accruing after April 30, 1954. CCC will not disburse loan proceeds to warehousemen for charges, even though requested to do so by the producer, if such charges are in excess of those approved for the 1953 crop under CCC Form 28, "Bean Storage Agreement" or if such charges cover services not required to bring the beans to the quality shown on the warehouse receipt.

(2) In the case of identity-preserved beans, the producer shall pay any unpiling, turning, repiling, or other warehouse charges, except loading-out charges, incident to official weight and grade determinations.

§ 601.85 *Support rates.* (a) The loan rate for eligible beans grading U. S. No. 2 or better, and meeting the packaging requirements of § 601.84 (a) shall be the applicable support rate shown in paragraph (b) of this section, for the class, grade, and county where produced, however, if the beans have been moved by truck to approved storage in a higher loan rate county, or if the warehouseman guarantees delivery by truck to approved storage or on track in such higher support rate county, the loan rate shall be the support rate for the county in which the beans are stored or to which delivery is guaranteed. Any charges specified in § 601.84 (b) which are unpaid shall be paid from the proceeds of the loan.

(b) The support rates per 100 pounds net weight established for dry edible beans are as follows:

APPENDIX I—AUTHORIZED SUPPORT PRICES FOR 1953-CROP DRY EDIBLE BEANS

Class and area	1953 support prices (per 100 pounds [1])
Pinto:	
Area I: All counties in New Mexico except McKinley, Rio Arriba, San Juan, Taos, and Valencia	$7.75
Area II: All counties in Kansas, Nebraska, Oklahoma, and Texas. In Colorado, the counties of Adams, Arapahoe, Baca, Bent, Boulder, Cheyenne, Clear Creek, Crowley, Denver, Douglas, Elbert, El Paso, Fremont, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Morgan, Otero, Phillips, Prowers, Pueblo, Sedgwick, Teller, Washington, Weld, and Yuma. In Wyoming, the counties of Goshen, Laramie, and Platte	7.65
Area III: The counties of McKinley and Valencia in New Mexico	7.65
Area IV: All counties in Arizona, California, Montana, South Dakota, and Utah. In Colorado, all counties not in Area II. In Wyoming, all counties except Goshen, Laramie, and Platte. In New Mexico, the counties of Rio Arriba, San Juan, and Taos	7.40
Area V: All other States and counties	7.20
Great Northern:	
Area I: Minnesota, Nebraska, North Dakota. In Colorado, all counties east of 106° longitude. In Wyoming, the counties of Goshen, Laramie, and Platte	8.40
Area II: Montana, South Dakota and all counties in Wyoming except Goshen, Laramie and Platte	8.15
Area III: Malheur County, Oregon, and the counties of Ada, Bannock, Bear Lake, Bingham, Boise, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Gooding, Jerome, Lincoln, Minidoka, Oneida, Owyhee, Payette, Power, and Twin Falls in Idaho	8.10
Area IV. All other States and counties	8.00
Pea and medium white:	
Area I: Michigan, New York, Minnesota, Maine, and Wisconsin	8.70
Area II: Other	8.20
Small white and flat small white	8.35
Red kidney	9.00
Pink	8.40
Small red	8.50
Large lima	11.00
Baby lima	9.45

[1] For U. S. No. 1. Premium for U. S. C. H. P. and U. S. Extra No. 1, 10 cents. Discount for U. S. No. 2, 25 cents. Loan rate for thresher-run beans—U. S. No. 1 less $2.00, except in New York and Michigan where the loan rate shall be U. S. No. 1 less $3.00. Quantity on thresher-run beans is the net weight of sound whole beans.

§ 601.86 *Storage in transit.* (a) Reimbursement will be made by CCC to producers or warehousemen for paid-in rail freight (including freight tax) on beans stored in approved warehouses, subject to the following conditions:

(1) The movement from point of origin to storage point must be an "in-line" movement as determined by CCC, and must be no greater than 100 miles from the point of production unless otherwise approved by CCC prior to the date of shipment.

(2) The freight must have been paid in by the person claiming reimbursement and he must not have been otherwise reimbursed.

(3) The warehouseman must furnish the descriptive data on all freight bills or transit tonnage slips on all eligible beans received into the storage facility at the time and in the manner stipulated in CCC Form 28, "Bean Storage Agreement" in effect with CCC for the 1953 crop.

(4) The freight bills or transit tonnage slips must be made available to CCC in accordance with the provisions of Form CCC 28, "Bean Storage Agreement."

(5) Not more than one transit stop must have been used on the billing.

(6) The freight bills must be otherwise acceptable to CCC under the terms of the storage agreement.

(b) Reimbursement for paid-in freight under this section will be made by the appropriate PMA Commodity Office subsequent to actual delivery of the beans to CCC pursuant to a loan or purchase agreement.

§ 601.87 *Settlement.* The settlement value of the beans delivered under a loan or purchase agreement shall be determined as set forth in this section.

(a) *Applicable county rate.* Settlement shall be made at the support rate for the county in which the beans are produced except as follows:

(1) In the case of farm-storage loans, settlement shall be made at the support rate for the county where the beans are delivered if the beans have been delivered to such county by truck.

(2) In the case of warehouse-storage loans, both identity-preserved and guaranteed, if the warehouse is located off the railroad, settlement will be made with the producer at the support rate for the county to which the warehouseman guarantees delivery for loading.

(b) *Applicable support rate for class and grade.* If the beans are stored in an approved warehouse and the quality is guaranteed by the warehouseman, settlement will be made with the producer at the applicable support rate for the quality of beans shown on the warehouse receipt. In other cases of beans delivered under loans and purchase agreements, settlement shall be made as follows:

(1) *Loans.* (i) In the case of beans (delivered under a farm-storage loan or identity preserved warehouse-storage loan) which are of a grade for which a support rate has been established, settlement shall be made at the applicable support rate for the class and grade of the beans delivered.

(ii) In the case of beans (delivered under a farm-storage loan or an identity-preserved warehouse storage loan) which are of a grade for which no support rate has been established, the settlement value shall be the settlement rate established for the grade placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade placed under loan and the market price of the beans delivered as determined by CCC: *Provided, however* That in the case of thresher-run beans which, when delivered are not of a grade for which a support rate has been established, the settlement value shall be the settlement value for the lowest grade for which a support rate has been established, less the difference, if any, at the time of delivery, between the market price for such grade and the market price of the beans delivered, as determined by CCC: *Provided, further* That if any such beans are sold by CCC in order to determine the market price for purposes of settlement, the settlement value shall not be less than such sales price.

(2) *Purchase agreements.* Under purchase agreements, beans wil be purchased at the applicable support rate for the class and grade of the eligible beans delivered.

(c) *Quantity on which settlement will be made.* Settlement will be made on the basis of each bag containing 100 pounds net weight of beans. The producer will be paid or credited for the net weight of the lot delivered or for a quantity determined by multiplying the number of bags by 100 pounds, whichever quantity is less. If all the beans in the lot are not weighed, the net weight shall be determined by multiplying the average net weight of not less than 10 percent of the bags in the lot by the total number of bags.

Issued this 10th day of July 1953.

[SEAL] HOWARD H. GORDON,
Executive Vice President,
Commodity Credit Corporation.

Approved:

JOHN H. DAVIS,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-6247; Filed, July 14, 1953; 8:51 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.312 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (§§ 958.1 to 958.19), regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the administrative committee for Area No. 3, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) *Order* (1) During the period July 20, 1953 to May 31, 1954, both dates inclusive, no handler shall ship potatoes of any variety grown in Area No. 3, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not meet the requirements of Colorado Regulation No. 1 (§ 958.301) and which are less than 2 inches minimum diameter for all round varieties, including, but not limited to Irish Cobblers, Katahdins, Kennebecs, Pontiacs, and Bliss Triumphs, and which are less than 2 inches minimum diameter or 4 ounces in weight for all long varieties, including, but not limited to Russet Burbank, and White Rose types.

(2) During the period July 20, 1953 to October 31, 1953, both dates inclusive, no handler shall ship potatoes grown in Area No. 3, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not comply with the aforesaid grade and size requirements and which are more than "moderately skinned" as such term is defined in the U. S. Standards for Potatoes (§ 51.366 of this title) which means that not more than 10 percent of the potatoes in any lot have more than one-half of the skin missing or feathered: *Provided,* That during such period not to exceed 100 hundredweight of such potatoes may be handled for any producer without regard to the aforesaid maturity requirements if the handler thereof reports, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(3) For the purpose of determining who shall be entitled to the exception set forth in subparagraph (2) of this paragraph from the maturity requirements contained in such subparagraph:

(i) "Producer" means any individual, partnership, corporation, association, landlord-tenant relationship, community property ownership, or any other business unit engaged in the production of potatoes for market.

(ii) It is intended that each 100 hundredweight exception to the aforesaid maturity requirements shall apply only to the potatoes grown on each farm of a producer.

(4) All terms used in this section shall have the same meaning as when used in Order No. 58 (§§ 958.1 to 958.19) and the U. S. grades and sizes, including the tolerances therefor, shall have the same meanings assigned such terms in the U. S. Standards for Potatoes (§ 51.366 of this title)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 10th day of July 1953.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-6251; Filed, July 14, 1953; 8:52 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6085]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

RUDOLPH R. SIEBERT

Subpart—*Advertising falsely and misleadingly:* § 3.30 *Composition of goods;* § 3.195 *Safety:* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1885 *Qualities or properties of product;* § 3.1890 *Safety;* § 3.1895 *Scientific or relevant facts.* In connection with the offering for sale, sale, or distribution in commerce, of "Pernet" silver polish, or any other product of substantially similar composition, whether sold under the same name or under any other name, (1) representing directly or by implication that said product contains nothing injurious or harmful or that it will not harm the skin; and (2) failing to disclose on the label of said preparation that it should not be taken internally, that its fumes or vapors are harmful and that said product should only be used with adequate ventilation, and that when contact with said preparation is frequent or prolonged it may cause injury to the skin; prohibited.

(Sec. 5, 38 Stat. 719; 15 U. S. C. 45) [Cease and desist order, Rudolph R. Seibert, etc., Rochester, N. Y., Docket 6085, June 6, 1953.]

In the Matter of Rudolph R. Siebert, an Individual Trading as Rudolph R. Siebert Company and as R. R. Siebert Company

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission, and a stipula-

tion entered into between respondent and counsel supporting the complaint, approved by the Chief, Division of Litigation, whereby it was stipulated and agreed that, subject to the approval of the examiner, a statement of facts therein set forth might be made a part of the record and taken as the facts in the proceeding and in lieu of evidence in support of the charges stated in the complaint or in opposition thereto.

Said stipulation further provided that the examiner might proceed upon said statement to make his initial decision stating his findings as to the facts, including inferences which he might draw from said stipulation and his conclusion based thereon and enter his order disposing of the proceeding, without the filing of proposed findings and conclusions or the presentation of oral argument, and also expressly provided that the Commission might, if the proceeding came before it upon appeal from such initial decision, or by review upon the Commission's own motion, set aside the stipulation and remand the case to the examiner for further proceedings upon the complaint.

Thereafter the proceeding regularly came on for final consideration by said examiner, theretofore duly designated by the Commission, upon the complaint and the aforesaid stipulation as to the facts, and said examiner, having approved said stipulation and made the same part of the record, after duly considering the latter and finding that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[1] conclusion drawn therefrom,[1] and order to cease and desist.

Thereafter, no appeal having been filed from said initial decision of said hearing examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on June 6, 1953.

The said order to cease and desist is as follows:

It is ordered, That respondent Rudolph R. Siebert, an individual trading as Rudolph R. Siebert Company and as R. R. Siebert Company, or under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of Pernet silver polish, or any other product of substantially similar composition, whether sold under the same name or under any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing directly or by implication that said product contains nothing injurious or harmful or that it will not harm the skin;

(2) Failing to disclose on the label of said preparation:

(a) That it should not be taken internally;

(b) That its fumes or vapors are harmful and that said product should only be used with adequate ventilation; and

(c) That when contact with said preparation is frequent or prolonged it may cause injury to the skin.

By "Decision of the Commission and order to file report of compliance," Docket 6085, issued June 12, 1953, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: June 12, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-6238; Filed, July 14, 1953; 8:50 a. m.]

[1] Filed as part of the original document.

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Reg. No. 1, Amdt.]

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

DISCLOSURE OF INFORMATION IN CONNECTION WITH CARE OF CERTAIN INSTITUTIONALIZED MENTAL INCOMPETENTS

Section 401.3 of Regulation No. 1 as amended (20 CFR 401.3) is further amended by adding a new paragraph (n) reading as follows:

§ 401.3 *Information which may be disclosed and to whom.* Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

* * * * *

(n) To any officer or employee of an agency of a State Government lawfully charged with the supervision of, or financial responsibility for, the care of a person who is mentally incompetent and who is confined in a State mental institution, information regarding his entitlement to benefits, and if entitled, the amount of such benefits and the name and address of the person to whom such benefits have been or are being paid. Disclosure under this paragraph shall be made only upon written certification by the State agency or institution that such information is to be used in connection with the performance of its duties under State law and that there is no other source from which it can obtain such information.

(Sec. 1102, 49 Stat. 647, as amended; 42 U. S. C. 1302. Interprets or applies sec. 1106, 53 Stat. 1398; 42 U. S. C. 1306. Reorg. Plan No. 1 of 1953, 18 F. R. 2053, 67 Stat. 18)

[SEAL] W. L. MITCHELL, *Acting Commissioner of Social Security.*

Approved: July 8, 1953.

OVETA CULP HOBBY, *Secretary of Health, Education, and Welfare.*

[F. R. Doc. 53-6226; Filed, July 14, 1953; 8:47 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[Regs. 46; T. D. 6023]

PART 316—EXCISE TAXES ON SALES BY THE MANUFACTURER

MISCELLANEOUS AMENDMENTS

On December 2, 1952, notice of proposed rule making was published in the FEDERAL REGISTER (17 F. R. 10373) in order to conform Regulations 46 (1940 Edition) (26 CFR Part 316) relating to excise taxes on sales by the manufacturer under Chapter 29 of the Internal Revenue Code, to sections 431–488, inclusive, and section 480 of the Revenue Act of 1951 (Pub. Law 183, 82d Cong., 1st Sess.) approved October 20, 1951, to Public Law 251 (82d Cong., 1st Sess.) approved October 31, 1951, and to Public Law 352 (82d Cong., 2d Sess.), approved May 21, 1952, and for other purposes. After consideration of all such relevant matter as was presented by interested persons regarding the proposal, the amendments to Regulations 46 (1940 Edition) set forth below are hereby adopted.

PARAGRAPH 1. Section 316.0, as amended by Treasury Decision 5854, approved September 13, 1951, is further amended by renumbering paragraph (b) (16) as (b) (17) and inserting the following after item (a) (15)

(16) Mechanical pencils, fountain and ball point pens, and mechanical lighters for cigarettes, cigars, and pipes; and

PAR. 2. There is inserted immediately preceding § 316.2 the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(g) *Effective date of subsection (f).* The amendment made by subsection (f) shall be effective with respect to articles purchased (by the user thereof) on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

* * * * *

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(f) *Effective dates.* The amendments made by subsections (a) and (b) shall take effect as provided in section 480. The amendments made by subsections (c) and (e) shall be applicable with respect to articles used in receivers sold to the United States on or after the first day of the first month which begins more than ten days

after the date of the enactment of this act, and the amendment made by subsection (d) shall be applicable with respect to articles resold to the United States on or after such first day.

SEC. 488. REPEAL OF TAX ON ELECTRICAL ENERGY (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Effective date.* (1) Except as provided in paragraph (2), the provisions of subsection (a) shall apply to electrical energy sold on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

(2) In the case of electrical energy sold which is billed to the customer for a period beginning before the effective date specified in paragraph (1) and ending on or after such date, the provisions of subsection (a) shall apply to that portion of the amount billed for the electrical energy sold during such period which the number of days in such period on and after such effective date bears to the total number of days in such period. This section shall not apply to electrical energy sold before such effective date for which a bill was rendered prior to such date.

SEC. 490. EFFECTIVE DATE OF PART VIII (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise expressly provided in this part, the amendments made by this part (secs. 481–489, inc.) shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this act.

PUBLIC LAW 251 (82D CONG., 1ST SESS.), APPROVED OCTOBER 31, 1951

* * * * *

SEC. 4. Notwithstanding the provisions of section 490 of the Revenue Act of 1951, the effective date of so much of the amendment made by section 485 of such Act to section 3406 (a) (3) of the Internal Revenue Code as relates to electric heating pads shall be April 1, 1952.

PUBLIC LAW 352 (82D CONG., 2D SESS.), APPROVED MAY 21, 1952

* * * * *

(b) The provisions of subsection (a) shall be effective as of November 1, 1951.

PAR. 3. Section 316.2, as amended by Treasury Decision 5854, is further amended by adding at the end thereof the following new paragraphs (g) (h) and (i)

(g) Part VIII of Title IV of the Revenue Act of 1951, effective November 1, 1951, provides for an increase in the rates of tax on chassis and bodies for trucks and other automobiles and parts or accessories therefor, except that beginning April 1, 1954, the rates revert to the rates in effect prior to November 1, 1951, the removal of the tax on certain sporting goods, the increase of the rate of tax on those sporting goods which remain subject to tax (other than certain fishing tackle) except that beginning April 1, 1954, the rate reverts to the rate in effect prior to November 1, 1951, an increase in the rate of tax on photographic film, the limiting of the tax to certain cameras, lenses, and film, and the reduction of the rate of tax on cameras and lenses; a change in the method of computing tax liability on sales of rebuilt automobile parts or accessories sold on an exchange basis; a refund or credit to manufacturers of automobile parts or accessories used or sold as repair or replacement parts for farm equipment; an exemption of certain types of communication, detection, or navigation receivers sold to the United States for its exclusive use, and components taxable under section 3404 (b) used or sold for use by the vendee as material in the manufacture or production of, or as a component part of, such receivers, together with complementary credit or refund provisions; tax-free sales of refrigerator components to vendees for resale to manufacturers of refrigeration equipment; the imposition of tax on mechanical pencils, fountain and ball point pens, and mechanical lighters for cigarettes, cigars, and pipes; the revision of section 3406 (a) (3) relating to electric, gas, and oil appliances, by applying the tax imposed thereunder to electric direct motor-driven fans and air circulators of the nonindustrial type and to an increased number of other appliances of the household type only; the removal of the tax on tires for toys, etc., and the repeal of the tax on electrical energy.

(h) The provisions of Public Law 251, 82d Congress, approved October 31, 1951, postpone the repeal of the tax on electric heating pads, as provided for by the Revenue Act of 1951, from November 1, 1951, to April 1, 1952.

(i) The provisions of Public Law 352, 82d Congress, approved May 21, 1952, discontinue the tax on unperforated microfilm effective November 1, 1951.

PAR. 4. Immediately preceding § 316.7, there is inserted the following:

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(e) *Use by manufacturer of taxable parts.* Section 3444 (b) (relating to tax on use by manufacturer of taxable articles) is hereby amended to read as follows:

(b) This section shall not apply with respect to the use by the manufacturer, producer, or importer of articles described in section 3404 (b) if such articles are used by him as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers are to be sold to the United States for its exclusive use.

* * * * *

PAR. 5. Section 316.7, as amended by Treasury Decision 5854, is further amended as follows:

(A) By amending paragraph (a) to read as follows:

(a) If a person manufactures, produces, or imports an article covered by this part, with the exceptions noted in paragraphs (b) and (c) of this section, and uses it for any purpose (other than as material in the manufacture or production of, or as a component part of, another article manufactured or produced by him which will be taxable or sold free of tax under the provisions of §§ 316.21, 316.22, or § 316.61a), he shall be liable for tax with respect to the use of such article in the same manner as if it were sold by him.

(B) By inserting immediately after paragraph (b) a new paragraph (c) to read as follows and by redesignating the present paragraph (c) as paragraph (d)

(c) If a person manufactures, produces, or imports an article taxable under section 3404 (b) and uses it as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations, he incurs no liability for tax with respect to such use of the article, provided he has a copy of a contract, purchase order, or other written evidence establishing that the receiver is to be sold to the United States on or after November 1, 1951, for its exclusive use. (See § 316.61a.)

PAR. 6. Immediately preceding § 316.30, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(h) *Removal of tax on tires for toys, etc.* Paragraph (1) of section 3400 (a) (relating to tax on tires) is hereby amended by adding at the end thereof the following: "The tax imposed by this paragraph shall not apply to (A) tires which are not more than 20 inches in diameter and not more than one and three-fourths inches in cross-section, if such tires are of all-rubber construction (whether hollow center or solid) without fabric or metal reinforcement, or (B) tires of extruded tiring with internal wire fastening agent."

PAR. 7. Section 316.30, as amended by Treasury Decision 5348, approved March 15, 1944, is further amended as follows:

(A) By redesignating paragraphs (a), (b) (c) and (d) as subparagraphs (1), (2), (3) and (4), and changing the headnote to read as follows:

§ 316.30 *Scope of tax*—(a) *In general.* * * *

(B) By adding a new paragraph (b) at the end thereof to read as follows:

(b) *Certain tires not subject to tax.* On and after November 1, 1951, the tax does not apply to sales of (1) tires of all rubber construction (whether hollow center or solid) having no fabric or metal reinforcement if such tires are not more than 20 inches in diameter measured to the outside circumference and not more than one and three-fourths inches in cross-section measured on a horizontal plane, or (2) tires of any size or dimensions manufactured or produced from extruded tiring the ends of which are fastened or held together by means of a wire or other metallic material inserted into the extruded tiring.

PAR. 8. Immediately preceding § 316.50, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Increase in tax on trucks.* Section 3403 (a) (tax on trucks, busses, etc.) is hereby amended by striking out "5 per centum" and inserting in lieu thereof "8 per centum, except that on and after April 1, 1954, the rate shall be 5 per centum"

(b) *Increase in tax on passenger automobiles and motorcycles.* Section 3403 (b) (tax on automobile chassis and bodies, etc.) is hereby amended to read as follows:

(b) *Other chassis and bodies, etc.* Other automobile chassis and bodies, chassis and bodies for trailers and semitrailers (other

than house trailers) suitable for use in connection with passenger automobiles, and motorcycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), except tractors, 10 per centum, except that on and after April 1, 1954, the rate shall be 7 per centum. A sale of an automobile, trailer, or semitrailer shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body."

* * * * *

PAR. 9. Section 316.50, as amended by Treasury Decision 5099, approved November 28, 1941, is further amended by adding at the end thereof the following new paragraph (g)

(g) The tax does not apply to house trailers sold on and after November 1, 1951.

PAR. 10. Paragraph (b) of § 316.50a, as added by Treasury Decision 5099, is amended by adding at the end thereof the following sentence: "On and after November 1, 1951, the term shall not include house trailers."

PAR. 11. Section 316.51, as amended by Treasury Decision 5099, is further amended to read as follows:

§ 316.51 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Automobile truck chassis and bodies; highway tractors; automobile bus chassis and bodies; automobile truck and bus trailer and semitrailer chassis and bodies:

	Percent
October 1, 1941 to October 31, 1951, inclusive	5
November 1, 1951 to March 31, 1954, inclusive	8
On and after April 1, 1954	5

(b) Other automobile chassis and bodies; other automobile trailer and semitrailer chassis and bodies; motorcycles:

	Percent
October 1, 1941 to October 31, 1951, inclusive	7
November 1, 1951 to March 31, 1954, inclusive	10
On and after April 1, 1954	7

(c) House trailers:

	Percent
October 1, 1941 to October 31, 1951, inclusive	7
On and after November 1, 1951	None

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 12. The first two sentences of § 316.52, as amended by Treasury Decision 5099, are further amended to read as follows: "If the manufacturer of a truck body installs it on an 'other automobile chassis' manufactured by him, he must record and bill the sale of the body and chassis separately, and pay tax on the separate sale price of the body and chassis at the rate applicable to each such article. In case a passenger body is installed by the manufacturer thereof on an 'automobile truck chassis' manufactured by him, the transaction must be handled in a similar manner, and the tax paid at the rate applicable to each separate article."

PAR. 13. Immediately preceding § 316.54, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(e) *Technical amendment.* Section 3403 (e) (relating to certain credits against the tax imposed by section 3403) is hereby amended by striking out "in the case of an article taxable under subsection (a), 5 per centum, and in the case of an article taxable under subsection (b), 7 per centum" and inserting in lieu thereof "in the case of an article taxable under subsection (a) or subsection (b), the applicable percentage rate of tax provided in such subsections"

* * * * *

PAR. 14. Section 316.54, as amended by Treasury Decision 5854, is further amended as follows:

(A) The second sentence of paragraph (b) is amended to read as follows: "For example, if the sale price of an automobile is $2,000, the tax payable thereon $200, and the cost to the automobile manufacturer of the tires, inner tubes or automobile radio or television receiving set, sold on or in connection therewith is $80, the manufacturer will be permitted to take a credit against the tax payable on the selling price of the automobile in an amount equal to 10 percent of $80, or $8."

(B) Paragraph (c) is amended by striking out "rate of 7 percent" and inserting in lieu thereof "applicable rate"

PAR. 15. Immediately preceding § 316.55, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Increase in tax on parts or accessories.* Section 3403 (c) (tax on parts or accessories for automobiles, etc.) is hereby amended by striking out "5 per centum" and inserting in lieu thereof "8 per centum, except that on and after April 1, 1954, the rate shall be 5 per centum"

(d) *Rebuilt parts or accessories.* Section 3403 (c) (tax on parts or accessories) is hereby amended by adding at the end thereof the following: "In determining the sale price of a rebuilt automobile part or accessory there shall be excluded from the price, in accordance with regulations prescribed by the Secretary, the value of a like part or accessory accepted in exchange."

* * * * *

PAR. 16. Immediately following § 316.55, there is inserted the following new section:

§ 316.55a *Rebuilt parts or accessories sold on an exchange basis.* On and after November 1, 1951, the tax on the sale of rebuilt automobile parts or accessories will be determined without taking into consideration the value of a like part or accessory accepted in exchange. The total amount charged in terms of cash in an exchange will be the basis for tax. For example, if a rebuilt automobile engine is sold for $100 on an exchange basis, the tax on the rebuilt engine will be computed on the basis of $100.

PAR. 17. Section 316.56, as amended by Treasury Decision 5099, is further amended to read as follows:

§ 316.56 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

AUTOMOBILE PARTS AND ACCESSORIES

	Percent
October 1, 1941 to October 31, 1951, inclusive	5
November 1, 1951 to March 31, 1954, inclusive	8
On and after April 1, 1954	5

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 18. Immediately preceding § 316.60, there is inserted the following:

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Exemption on sales to United States of certain radio sets.* Section 3404 (a) (relating to manufacturers' excise tax on radio receiving sets, etc.) is hereby amended by adding at the end thereof the following new sentence: "No tax shall be imposed under this subsection with respect to the sale to the United States for its exclusive use of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations."

(b) *Tax-free sales of radio parts.* Section 3404 (b) (relating to manufacturers' excise tax on component parts of radio receiving sets, etc.) is hereby amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, no tax shall be imposed under this subsection with respect to the sale of any article for use by the vendee as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers are to be sold by the vendee to the United States for its exclusive use. If any article sold tax-free to such vendee is not so used by him, or being so used the receiver is not so sold, the vendee shall be considered as the manufacturer or producer of such article."

* * * * *

PAR. 19. Immediately following § 316.61 there is inserted the following new section:

§ 316.61a *Specific exemption of certain communication receivers, etc., and component parts.*—(a) Receivers (1) On and after November 1, 1951, the tax imposed under section 3404 (a) does not apply with respect to the sale to the United States for its exclusive use of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations. To establish the right to exemption from the tax with respect to such sale, it is necessary that the manufacturer (i) have in his possession a copy of the prime contract, subcontract, or Government purchase order, under which the sale to the United States is made by him directly or through the prime contractor, or (ii), in the absence of such contract or purchase order, obtain from an authorized officer of the United States and retain in his possession a properly executed exemption certificate in the form prescribed by this section.

(2) The certificate required by this section shall be in substantially the following form:

EXEMPTION CERTIFICATE

(To support tax-free sales to the United States of communication, detection, or navi-

gation receivers under section 3404 (a) of the Internal Revenue Code, as amended by section 482 of the Revenue Act of 1951.)

_____, 19___.
(Date)

The undersigned hereby certifies that he is _____ of _____
(Title of officer) (United States
_____, that he is authorized
governmental unit)
to execute this certificate; and that the article or articles specified in the accompanying order, or on the reverse side hereof, are purchased from _____ for the
(Name of company)
exclusive use of the United States.

It is understood that the exemption from tax in the case of sales of articles under this exemption certificate to the United States is limited to the sale of articles purchased for its exclusive use. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.

_____
(Signature)

_____
(Title of officer)

(3) The articles covered by the exemption certificate must be fully identified as to type, quantity, and date of sale. If it is impracticable to furnish a separate exemption certificate for each order or contract, a certificate covering all orders between given dates (such period not to exceed six months) will be acceptable.

(4) Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained as provided in § 316.202.

(5) Where the evidence required to support a tax-free sale is obtained subsequent to the sale but prior to the time the manufacturer is required to file a return covering taxes due for the month during which the sale was made he shall include the tax on such sale in his return for that month, in the item "Total tax due" but may deduct an amount equivalent to the tax applicable to such sale and pay the net tax resulting, making appropriate explanation either on the face of the return or on a rider attached thereto. If such evidence is not so obtained, the manufacturer must include the tax on such sale in his return for the month in which the sale was made. However, if such evidence is later obtained a claim for refund of tax paid may be filed on Form 843, or a credit taken upon a subsequent return, but such action must be taken within the 4-year period of limitation prescribed by section 3313.

(6) No sale of a receiver may be made free of tax by the manufacturer to a dealer for resale to the United States. However, where a tax-paid receiver is sold by a dealer on or after November 1, 1951, to the United States for its exclusive use, the manufacturer may be allowed a credit or refund in the amount of tax paid on the article in accordance with the provisions of § 316.204.

(b) *Components for receivers.* (1) On and after November 1, 1951, no tax attaches under section 3404 (b) with respect to the sale by the manufacturer of any component named in such section for use by his vendee as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations if such receiver is to be sold by such vendee to the United States for its exclusive use.

(2) Where the United States contracts for the manufacture and purchase of receivers of the prescribed character under a prime-subcontract arrangement whereby the receivers or subassemblies for such receivers are manufactured or produced by a subcontractor, the entire arrangement is considered as a single transaction so that a sale of a component taxable under section 3404 (b) to the subcontractor is considered a sale to the vendee manufacturing the receiver for sale by him, directly or through the prime contractor, to the United States.

(3) To establish the right to exemption with respect to any component taxable under section 3404 (b), the manufacturer must obtain prior to or at the time of the sale, and retain in his possession, a certificate substantially in the form prescribed in subparagraph (5) of this paragraph showing that the article is to be used by his vendee for the purpose mentioned in this section.

(4) If any person purchases a component free of tax under an exemption certificate for use in the manufacture of a receiver of the prescribed character to be sold to the United States for its exclusive use or for use in the manufacture of a sub-assembly of such a receiver, and if the component is not so used or, being so used, the receiver is not so sold, such person shall be considered the manufacturer of such component and shall be liable for tax on his use or resale of the component.

(5) The following form of exemption certificate will be acceptable for the purpose of this paragraph:

EXEMPTION CERTIFICATE

(To support tax-free sales of components under section 3404 (b) of the Internal Revenue Code, as amended by section 482 of the Revenue Act of 1951, to be used in the manufacture of communication, detection, or navigation receivers to be sold to the United States.)

_____, 19___.
(Date)

The undersigned hereby certifies that he is engaged in the manufacture of _____
(Communi-
_____ receivers
cation, detection, or navigation)
of the types used in _____
(Commercial, military,
_____ installations or subassemblies for
or marine)
such receivers; that the components taxable under section 3404 (b) of the Internal Revenue Code which are specified in the accompanying order or contract will be used by him as material in the manufacture or production of, or as a component part of, such receivers or subassemblies to be incorporated therein; and that the receivers will be sold to the United States for its exclusive use, either directly by him or under a prime-subcontract arrangement with the United States to which he is a party.

It is understood that if any of the components purchased under this certificate are resold separately by the undersigned, or are used for any purpose other than that stated above, the undersigned will be considered as the manufacturer of the components so purchased and shall pay to the Government the tax on such resale or use unless his resale or use of the articles is exempt from tax under another provision of the law.

It is further understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.

_____
(Name)

_____
(Address)

(6) If it is impracticable to furnish a separate exemption certificate with each order or contract, a certificate covering all orders between given dates (such period not to exceed six months) will be acceptable.

(7) The certificates and proper records of orders, invoices, etc., shall be retained by the manufacturer of the components as provided in § 316.202.

(8) Where a certificate is not in the possession of the manufacturer at the time he sells the components, he is liable for the tax and is not entitled to a credit or refund on the ground that the receiver is to be sold by his vendee to the United States. The manufacturer of the receiver may, however, be allowed a credit or refund in the amount of the tax paid on the components in accordance with the provisions of § 316.204 after he sells the receiver to the United States.

(9) The exemption provided for under this paragraph applies to the sale of a taxable component for use by the vendee as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver to be sold by such vendee to the United States for its exclusive use. The exemption also applies to the sale of a taxable component to the manufacturer of a nontaxable subassembly provided the subassembly is to be sold to a manufacturer for use as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver to be sold by such manufacturer to the United States for its exclusive use. This exemption is illustrated by the following example: A holds a prime contract with the United States for the manufacture of a commercial type of nontaxable detection receiver; A subcontracts with B for a nontaxable chassis to be used in the manufacture of such receiver and B subcontracts with C for certain taxable tubes to be used in the manufacture of the chassis. Neither A nor B is required to pay tax on his sale inasmuch as the article sold by him is nontaxable. C is exempt from tax on his sale of tubes to B, since the tubes are to become components of the detection receiver to be sold to the United States by A.

(10) For provisions with respect to tax-free sales for further manufacture of taxable articles under section 3442, see §§ 316.20 to 316.23, inclusive.

PAR. 20. Immediately preceding § 316.70, there is inserted the following:

SEC. 483. TAX-FREE SALES OF REFRIGERATOR COMPONENTS TO WHOLESALERS FOR RESALE TO MANUFACTURERS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3405 (b) is hereby amended by inserting "(hereinafter referred to as 're-

frigerating equipment')" before the period at the end of the first sentence and by striking out the second and third sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary, the tax under this subsection shall not apply in the case of sales of any such refrigerator components by the manufacturer, producer, or importer to (1) a manufacturer or producer of refrigerating equipment, or (2) a vendee for resale to a manufacturer or producer of refrigerating equipment if such components are in due course so resold. If any such refrigerator components are resold by the manufacturer or producer to whom sold or resold otherwise than on or in connection with, or with the sale of, complete refrigerating equipment manufactured or produced by him, then for the purposes of this section such manufacturer or producer shall be considered the manufacturer or producer of the refrigerator components so resold by him."

PAR. 21. Section 316.70, as amended by Treasury Decision 5854, is further amended by striking out the first sentence of paragraph (c) (4) and inserting in lieu thereof a new sentence to read as follows: "A manufacturer of household type refrigerators, other type refrigerators, household type units for the quick freezing or frozen storage of foods, other quick-freeze units, or refrigerating or cooling apparatus may purchase tax free for use as components in the manufacture of such articles any of the refrigerating and freezing apparatus specified in section 3405 (b)."

PAR. 22. Section 316.71, as amended by Treasury Decision 5854, is further amended by striking out the last sentence of paragraph (b) and inserting in lieu thereof a new sentence to read as follows: "Sales of such refrigerating apparatus as component parts of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units are not subject to tax."

PAR. 23. Section 316.72, as added by Treasury Decision 5854, is amended as follows:

(A) By redesignating paragraphs (e), (f) (g), (h), (i) and (j) as paragraphs (h) (i), (j) (k), (l) and (m) and by striking paragraph (d) and inserting in lieu thereof the following:

(d) Prior to November 1, 1951, this exemption from tax does not apply in the case of a sale of refrigerator components by the manufacturer thereof to a wholesaler, jobber, dealer, etc., where such wholesaler, jobber, dealer, etc., does not qualify as a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units.

(e) On and after November 1, 1951, a manufacturer of taxable refrigerator components, as specified in section 3405 (b), may sell such refrigerator components tax free to a wholesaler, jobber, dealer, or any other person buying for resale to a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units. Tax-free sales of such refrigerator components may not be made to repairmen or servicemen for repair or service work.

(f) In order to make a tax-free sale it is necessary that the manufacturer of the components (1) obtain from the wholesaler, etc., prior to or at the time of the sale and retain in his possession, a statement showing that the component is being purchased for resale to a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units, and (2) obtain proof that the component has been so resold. Such proof shall be either an exemption certificate in the form set forth below properly executed by the manufacturer purchasing the component for further manufacture, or a statement by the wholesaler, etc., that he has obtained from his vendee, and has in his possession, available for inspection by internal revenue officers, such a certificate. The statement referred to in subparagraph (1) of this paragraph suspends the liability of the manufacturer of the component for payment of the tax for a period of two months from the date of his sale. If within such period the manufacturer of the component has not obtained proof of the tax-free character of the resale by the wholesaler, etc., then the temporary suspension of liability for the payment of the tax ceases, and the manufacturer of the component shall include the tax on the sale of such component in his return for the month in which such 2-month period expires. If such proof subsequently becomes available, a credit for the tax paid may be taken upon a subsequent return or a claim for refund may be filed at any time within the 4-year period of limitation prescribed by section 3313. Where the manufacturer of the taxable component has in his possession the evidence required by subparagraph (1) of this paragraph but elects to pay the tax instead of making a tax-free sale, he may take a credit or file a refund claim for the tax so paid when he has in his possession the proof required by subparagraph (2) of this paragraph.

(g) The foregoing exemption and credit or refund provisions apply only where there is not more than one intervening sale between the manufacturer of the component and the manufacturer of the complete refrigerator, refrigerating or cooling apparatus, or quick-freeze unit.

(B) By striking out the words "refrigerators, refrigerating and cooling apparatus, or quick-freeze units" in the first paragraph of the "Exemption Certificate" and inserting in lieu thereof the words "complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units"

PAR. 24. Immediately preceding § 316.90, there is inserted the following:

SEC. 424. SPORTING GOODS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3406 (a) (1) (relating to manufacturers' excise tax on sporting goods) is hereby amended to read as follows:

(1) *Sporting goods.* Badminton nets; badminton rackets (measuring 22 inches over all or more in length); badminton racket frames (measuring 22 inches over all or more in length); badminton racket string; badminton shuttlecocks; badminton standards; billiard and pool tables (measuring 45 inches over all or more in length); billiard and pool balls and cues for such tables; bowling balls and pins; clay pigeons and traps for throwing clay pigeons; cricket balls; cricket bats; croquet balls and mallets; curling stones; deck tennis rings, nets, and posts; golf bags (measuring 26 inches or more in length); golf balls; golf clubs (measuring 30 inches or more in length); lacrosse balls; lacrosse sticks; polo balls; polo mallets; skis; ski poles; snowshoes; snow toboggans and sleds (measuring more than 60 inches over all in length); squash balls; squash rackets (measuring 22 inches over all or more in length); squash racket frames (measuring 22 inches over all or more in length); squash racket string; table tennis tables, balls, nets, and paddles; tennis balls; tennis nets; tennis rackets (measuring 22 inches over all or more in length); tennis racket frames (measuring 22 inches over all or more in length); tennis racket string; 15 per centum, except that on and after April 1, 1954, the rate shall be 10 per centum; fishing rods, creels, reels, and artificial lures, baits, and flies; 10 per centum.

PAR. 25. Section 316.90, as added by Treasury Decision 5099, is amended as follows:

(A) By redesignating present paragraphs (a) through (d) as subparagraphs (1) through (4) and by changing the headnote to read as follows:

§ 316.90 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding at the end thereof the following:

(b) *For the period beginning November 1, 1951.* On and after November 1, 1951, the tax does not apply with respect to sales of the following:

Baseball paraphernalia and equipment.
Basketball paraphernalia and equipment.
Football paraphernalia and equipment.
Hockey paraphernalia and equipment.
Indoor baseball paraphernalia and equipment.
Soccer paraphernalia and equipment.
Softball paraphernalia and equipment.
Volley ball paraphernalia and equipment.
Water polo paraphernalia and equipment.
Wrestling paraphernalia and equipment.
Boxing apparatus and equipment.
Fencing apparatus and equipment.
Track apparatus and equipment.
Gymnasium apparatus and equipment.
Push balls.
Mace balls.
Shafts.
Snow toboggans and sleds (measuring sixty inches or less overall in length).

All articles subject to tax during the period October 1, 1941 to October 31, 1951, inclusive, and not listed above continue to be subject to tax.

PAR. 26. Section 316.91, as added by Treasury Decision 5099, is amended to read as follows:

§ 316.91 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) All articles, except fishing tackle:

	Percent
October 1, 1941 to October 31, 1951, inclusive	10
November 1, 1951 to March 31, 1954, inclusive	15
On and after April 1, 1954	10

(b) Fishing tackle:

	Percent
All periods	10

In each case the taxable price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 27. Immediately preceding § 316.110, there is inserted the following:

SEC. 485. ELECTRIC, GAS, AND OIL APPLIANCES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3406 (a) (3) (relating to manufacturers' excise tax on electric, gas, and oil appliances) is hereby amended (1) by striking out "Electric direct motor-driven fans and air circulators" and inserting in lieu thereof "Electric direct motor-driven fans and air circulators (not of the industrial type) and the following appliances of the household type:" (2) by striking out "electric heating pads and blankets" and inserting in lieu thereof "electric blankets, sheets, and spreads," and (3) by inserting after "juicers;" the following: "electric belt-driven fans; electric exhaust blowers; electric or gas clothes driers; electric door chimes; electric dehumidifiers; electric dishwashers; electric floor polishers and waxers; electric food choppers and grinders; electric hedge trimmers; electric ice cream freezers; electric mangles; electric motion or still picture projectors; electric pants pressers; electric garbage disposal units; and power lawn mowers;"

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* * * * *

SEC. 4. Notwithstanding the provisions of section 490 of the Revenue Act of 1951, the effective date of so much of the amendment made by section 485 of such Act to section 3406 (a) (3) of the Internal Revenue Code as relates to electric heating pads shall be April 1, 1952.

PAR. 28. Section 316.110, as amended by Treasury Decision 5348, is further amended as follows:

(A) By redesignating present paragraphs (a) through (d) as subparagraphs (1) through (4) and by changing the headnote to read as follows:

§ 316.110 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding the following new paragraphs at the end thereof:

(b) *For the period beginning November 1, 1951*—(1) *Electric direct motor-driven fans and air circulators.* On and after November 1, 1951, section 3406 (a) (3) imposes a tax on sales by the manufacturer of all electric direct motor-driven fans and air circulators except those of the industrial type. The following list is illustrative of the direct motor-driven fans and air circulators which are of the nonindustrial type and therefore subject to tax:

Ceiling fans of the wood blade type (regardless of whether the blades are made of wood or other material).

Hassock type radial discharge fans and air circulators and modifications thereof, regardless of blade diameter.

Exhaust or intake ventilating fans of the household type for use in window or attic.

Exhaust or intake ventilating fans of the household kitchen type (built-in wall and built-in ceiling types).

Desk, bracket, and pedestal type fans and air circulators with blade diameter of 16 inches and less.

(2) *Household type electric, gas, or oil appliances.* On and after November 1, 1951, section 3406 (a) (3) imposes a tax on sales by the manufacturer of the appliances listed below if they are of the household type. The term "household type" is general in application so that any article falling within the category of those named in the following list is considered of the "household type" and subject to tax if it has an actual practical commercial fitness for household use or if it is specifically designed and constructed for use in the household:

Electric, gas, or oil water heaters.
Electric flat irons.
Electric air heaters (not including furnaces).
Electric immersion heaters.
Electric blankets, sheets, and spreads.
Electric heating pads (only if sold prior to April 1, 1952).
Electric, gas, or oil appliances of the type used for cooking, warming, or keeping warm food or beverages for consumption on the premises.
Electric mixers, whippers, and juicers.
Electric belt-driven fans.
Electric exhaust blowers.
Electric or gas clothes driers.
Electric door chimes.
Electric dehumidifiers.
Electric dishwashers.
Electric floor polishers and waxers.
Electric food choppers and grinders.
Electric hedge trimmers.
Electric ice cream freezers.
Electric mangles.
Electric motion or still picture projectors.
Electric pants pressers.
Electric garbage disposal units.
Power lawn mowers.

(3) *Parts or accessories.* The tax also attaches to any parts or accessories sold on or in connection with, or with the sale of, any taxable direct motor-driven fan or air circulator or any household type appliance.

PAR. 29. Immediately preceding § 316.120, there is inserted the following:

SEC. 486. ADJUSTMENTS OF TAX RATES ON PHOTOGRAPHIC APPARATUS AND FILM; REPEAL OF TAX ON CERTAIN ITEMS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Items subject to tax.* Section 3406 (a) (4) (relating to the manufacturers' excise tax on photographic apparatus) is hereby amended to read as follows:

(4) *Photographic apparatus.* Cameras and camera lenses, and unexposed photographic film in rolls (including motion picture film), 20 per centum. The tax imposed under this paragraph shall not apply to X-ray cameras, to cameras weighing more than four pounds exclusive of lens and accessories, to still camera lenses having a focal length of more than one hundred and twenty millimeters, to motion picture camera lenses having a focal length of more than thirty millimeters, to X-ray film, to film more than one hundred and fifty feet in length, or to film more than twenty-five feet in length and more than thirty millimeters in width. Any person who acquires unexposed photographic film not subject to tax under this paragraph and sells such unexposed film in form and dimensions subject to tax hereunder (or in connection with a sale cuts such film to form and dimensions subject to tax hereunder) shall for the purposes of this subsection be considered the manufacturer of the film so sold by him.

(b) *Floor stocks refunds on bulbs.* (1) With respect to any photo-flash or other bulb upon which the tax imposed under section 3406 (a) (4) of the Internal Revenue Code has been paid, and which on the effective date specified in section 489 of this Act is held by any person and intended for sale, or for use in the manufacture or production of any article intended for sale, there shall be credited or refunded to the manufacturer or producer of such bulb (without interest), subject to such regulations as may be prescribed by the Secretary, an amount equal to so much of the tax so paid as has been paid by such manufacturer or producer to such person as reimbursement for the elimination on such effective date of the tax on such bulb, if claim for such credit or refund is filed with the Secretary prior to the expiration of three months after such effective date. No credit or refund shall be allowable under this paragraph for any bulb held by any person for sale which was purchased by such person as a component part of any other article.

(2) No person shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which he has made the reimbursements described in paragraph (1) as the regulations under paragraph (1) shall prescribe.

(3) All provisions of law, including penalties, applicable with respect to the tax imposed under section 3406 (a) (4) of the Internal Revenue Code shall, insofar as applicable and not inconsistent with this subsection, be applicable in respect of the credits and refunds provided for in this subsection to the same extent as if such credits or refunds constituted credits or refunds of such taxes.

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* * * * *

That (a) the second sentence of section 3406 (a) (4) of the Internal Revenue Code as amended by section 486 (a) of the Revenue Act of 1951 is further amended by adding after the comma following the words "to X-ray film" the following: "to unperforated microfilm,"

* * * * *

PAR. 30. Section 316.120, as amended by Treasury Decision 5189, approved November 30, 1942, is further amended as follows:

(A) By redesignating present paragraphs (a) through (h) as subparagraphs (1) through (8) and by changing the headnote to read as follows:

§ 316.120 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding at the end thereof the following:

(b) *For the period beginning November 1, 1951.* (1) On and after November 1, 1951, section 3406 (a) (4) imposes a tax on sales by the manufacturer of the following articles:

Cameras (other than X-ray cameras) weighing four pounds or less exclusive of lens and accessories.

Still camera lenses having a focal length of one hundred and twenty millimeters or less.

Motion picture camera lenses having a focal length of thirty millimeters or less.

Unexposed photographic film (other than X-ray film and unperforated microfilm) in rolls (1) one hundred and fifty feet or less in length and thirty millimeters or less in width and (2) twenty-five feet or less in length and more than thirty millimeters in width.

Parts or accessories of any of the above articles sold on or in connection therewith, or with the sale thereof.

(2) Beginning November 1, 1951, any person who acquires unexposed photographic film in dimensions not subject to tax and cuts such film to dimensions which are subject to tax shall be consid-

ered the manufacturer of such film and shall be liable for tax on his sales of such cut film.

PAR. 31. Section 316.122, as amended by Treasury Decision 5189, is further amended to read as follows:

§ 316.122 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Cameras and lenses:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	20

(b) Unexposed photographic film in rolls (except X-ray film).

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	20

(c) Unperforated microfilm:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	None

(d) Unexposed photographic plates and sensitized paper:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	None

(e) Photographic apparatus and equipment:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	None

(f) Apparatus and equipment designed for use in taking, developing, etc., pictures:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	None

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 32. Immediately following § 316.194, there is inserted the following:

SEC. 488. REPEAL OF TAX ON ELECTRICAL ENERGY (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Repeal of tax.* Section 3411 (relating to tax on electrical energy for domestic or commercial consumption), and sections 3441 (d) and 3447 (c) (related provisions), are hereby repealed.

(b) *Effective date.* (1) Except as provided in paragraph (2), the provisions of subsection (a) shall apply to electrical energy sold on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

(2) In the case of electrical energy sold which is billed to the customer for a period beginning before the effective date specified in paragraph (1) and ending on or after such date, the provisions of subsection (a) shall apply to that portion of the amount billed for the electrical energy sold during such period which the number of days in such period on and after such effective date bears to the total number of days in such period. This section shall not apply to electrical energy sold before such effective date for which a bill was rendered prior to such date.

§ 316.195 *Termination of tax.* Effective November 1, 1951, no tax shall apply to electrical energy sold for domestic or commercial consumption on or after that date. Whether or not the tax is applicable is dependent upon the period during which the electrical energy was sold and not upon the date the bill for such electrical energy was rendered to the purchaser. Therefore, the tax will apply to electrical energy sold before November 1, 1951, regardless of whether the bill was rendered to the purchaser before or after that date. Where electrical energy is sold and billed to the customer for a period beginning prior to November 1, 1951, and ending on or after such date, the tax will not apply to that portion of the total amount billed which the number of days in such period on and after November 1, 1951, bears to the total number of days in the entire period. For example, if a bill is rendered for the period October 15, 1951, to November 14, 1951 (both dates inclusive), a total of 31 days, no tax will apply to fourteen thirty-firsts of the total amount billed.

PAR. 33. The heading "Subpart U—Miscellaneous Provisions" as designated by Treasury Decision 5099, is redesignated as "Subpart V—Miscellaneous Provisions" and immediately following Subpart T a new Subpart U is added to read as follows:

SUBPART U—MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES

SEC. 487. IMPOSITION OF TAX ON MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Chapter 29 (relating to manufacturers' excise and import taxes) is hereby amended by adding after section 3407 the following new section:

SEC. 3408. TAX ON MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES.

(a) *Imposition of tax.* There shall be imposed on the following articles, sold by the manufacturer, producer, or importer, a tax equal to 15 per centum of the price for which so sold: Mechanical pencils, fountain pens, and ball point pens; mechanical lighters for cigarettes, cigars, and pipes.

(b) *Exemption if article taxable as jewelry.* No tax shall be imposed under this section on any article taxable under section 2400 (relating to jewelry tax). If any article, on the sale of which tax has been paid under this section, is further manufactured or processed resulting in an article taxable under section 2400, the person who sells such article at retail shall, in the computation of the retailers' excise tax due on such sale, be entitled to a credit or refund in an amount equal to the tax paid under this section.

§ 316.196 *Scope of tax.* The tax imposed by section 3408 attaches to the sale by the manufacturer on and after November 1, 1951, of mechanical pencils, fountain pens, ball point pens, and mechanical lighters for cigarettes, cigars, and pipes.

§ 316.197 *Use of terms.* (a) The term "mechanical pencil" includes any writing instrument containing a movable marking or writing substance in which the desired length of the marking or writing substance is controlled by a propelling or repelling device.

(b) The term "fountain pen" includes a writing instrument of the type equipped with a reservoir for holding ink or other writing fluid which feeds the point when the instrument is in use.

(c) The term "ball point pen" includes a writing instrument of the type having an inking reservoir or magazine which feeds a ball writing part when the instrument is in use.

(d) The term "mechanical lighters for cigarettes, cigars, and pipes" includes any articles designed to produce by means of any type of mechanical action a flame or other heat generating source for the lighting of cigarettes, cigars, and pipes.

§ 316.198 *Exemption if articles taxable as jewelry.* (a) The tax imposed by section 3408 does not apply to the sale by the manufacturer of any article named therein if such article is, when sold, subject to the tax imposed by section 2400 (relating to jewelry, etc.) For further details, see § 320.33 of this subchapter (Regulations 51).

(b) Where subsequent to the sale by the manufacturer and prior to the sale at retail, any article named in section 3408 is further manufactured or processed in any manner so that it becomes subject to the tax imposed under section 2400, the person who sells such article at retail shall, in computing the retailers' excise tax due on such sale, be entitled to a credit or refund in an amount equal to the tax paid under section 3408. However, such credit or refund is not allowable to the manufacturer who originally paid tax under section 3408, but is allowable only to the person who sells the article at retail.

§ 316.199 *Rate of tax.* The tax is payable by the manufacturer at the rate of 15 per cent of the sale price as determined under §§ 316.8 to 316.15, inclusive.

PAR. 34. Immediately preceding § 316.204, there is inserted the following:

SEC. 491. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(f) *Parts or accessories for farm equipment.* Section 3443 (a) (3) (A) is hereby amended by striking out the period at the end of clause (v) and inserting in lieu thereof a semicolon, and by inserting after clause (v) the following:

(vi) in the case of articles taxable under section 3403 (c) (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains), used or resold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under subsection (a) or (b) of section 3403);.

* * * * *

SEC. 492. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Refund in case of use of parts.* Section 3443 (a) (1) (relating to credits and refunds) is hereby amended to read as follows:

(1) To a manufacturer or producer, in the amount of any tax under this chapter which has been paid with respect to the sale of—

(A) Any article (other than a tire, inner tube, or automobile radio or television receiving set taxable under section 3404) purchased by him and used by him as material in the manufacture or production of, or as a component part of, an article with respect to which tax under this chapter has been paid, or which has been sold free of tax by virtue of section 3442, relating to tax-free sales;

(B) Any article described in section 3404 (b) purchased by him and used by him as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers have been sold by him to the United States for its exclusive use.

(d) *Refund in case of resale to United States.* Section 3443 (a) (3) (A) is hereby amended by adding at the end thereof the following:

(vii) in the case of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations, resold to the United States for its exclusive use.

* * * * *

PAR. 35. Section 316.204, as amended by Treasury Decision 5880, approved February 11, 1952, is further amended as follows:

(A) By inserting "(1)" immediately after the words "with respect to the sale of" in the first sentence of paragraph (a) and by changing the period at the end thereof to a comma and adding the following: "or (2) any article described in § 316.61 purchased and used by such manufacturer as material in the manufacture or production of, or as a component part of, a receiver of the type described in § 316.61a (a) which is sold on or after November 1, 1951, to the United States for its exclusive use directly by him or under a prime-subcontractor arrangement to which he is a party."

(B) By adding at the end thereof the following new paragraphs:

(m) By virtue of the provisions of section 3443 (a) (3) (A) (vii) of the Code, as added by section 482 (d) of the Revenue Act of 1951, a manufacturer of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations may be allowed a refund or may take credit on a subsequent return in the amount of any tax paid by him on the sale of such a receiver, if on or after November 1, 1951, such receiver is sold by any person to the United States for its exclusive use. Refund or credit will be allowed in such cases only upon the submission of the evidence required by the preceding paragraphs of this section relating to transactions within the scope of section 3443 (a) (3) (A).

(n) Under the provisions of section 3443 (a) (3) (A) prior to November 1, 1951, no credit or refund was allowable with respect to tax paid on automobile parts or accessories used or resold for use as repair or replacement parts or accessories for farm equipment even though it was known at the time of the sale that the articles would be so used. On and after November 1, 1951, a manufacturer may be allowed a refund or may take credit against the tax shown to be due upon any subsequent monthly return, in the amount of tax paid by him with respect to the sale of any article taxable under section 3403 (c) (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains) used by the ultimate vendor thereof (retailer, repairman, etc.) on or after November 1, 1951, or resold by such ultimate vendor on or after such date for use by his purchaser, as a repair or replacement part or as an accessory for farm equipment (other than equipment taxable under subsection (a) or (b) of section 3403) provided the manufacturer can establish the date the tax on his sale of such article was paid to the United States and the amount of such tax, and he has in his possession a certificate from the ultimate vendor in the form prescribed in paragraph (o) of this section. Where the certificate is obtained prior to the time the manufacturer is required to file a return covering taxes due for the month in which the sale was made, he should include the tax on such sale in his return for that month, in the item "Total tax due" but he may deduct an amount equivalent to the tax applicable to such sale and pay the net tax resulting, making appropriate explanation on a rider attached to the return. If the certificate is not so obtained, the manufacturer must include the tax on such sale in his return for the month in which the sale was made, and when the certificate is later obtained he may file a claim for refund on Form 843, or take a credit upon any subsequent return, but such action must be taken within the four-year period of limitation prescribed by section 3313.

(o) The following is the form of certificate which will be acceptable for the purposes of paragraph (n) of this section:

CREDIT OR REFUND CERTIFICATE

(For use by ultimate vendors (retailers, repairmen, etc.) to support a credit or claim for refund under section 3443 (a) (3) (A) (vi) of the Internal Revenue Code.)

The undersigned vendor hereby certifies that the automobile parts or accessories (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains) specified below or on the reverse side hereof were purchased tax paid and, on or after November 1, 1951, were used by him or were resold for use by the purchaser thereof as repair or replacement parts or accessories for farm equipment (other than automobile truck chassis and bodies, etc., taxable under section 3403 (a) or (b) of the Internal Revenue Code) that the purpose for which such parts or accessories were used or resold comes within the credit or refund provision of section 3443 (a) (3) (A) (vi) of the Internal Revenue Code, as added by section 481 (f) of the Revenue Act of 1951; that he consents to the allowance of a credit or refund to

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(Name and address of manufacturer)

in the amount of the tax paid by such manufacturer on the sale of the articles; and that he has not heretofore given his consent to the allowance of this credit or refund to any other manufacturer and has not made application for a credit or refund of this Federal tax from any other source.

It is understood by the undersigned that the fraudulent use of this certificate will subject him to a fine of not more than $10,000, or to imprisonment of not more than five years, or both, together with the cost of prosecution.

(Name)

(Address)

(Date)

Suppliers' invoice No.	*Article and quantity*
Date of use or resale	*Name and address of customer*

(p) If it is impracticable to furnish a separate certificate for each use or resale, a certificate covering each use or resale between given dates (such period not to exceed 6 months) will be acceptable. Such certificate and supporting records shall be retained by the manufacturer as provided by § 316.202.

(53 Stat. 419, 467; 26 U. S. C. 3450, 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 8, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6232; Filed, July 14, 1953; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

CLASS III-A

EDITORIAL NOTE: For amendments to § 1622.30 (a) and (c) (2), see Title 3, Executive Order 10469, *supra.*

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

MALLETTS BAY, LAKE CHAMPLAIN, VT.

Pursuant to the provisions of section 1 of the act of Congress approved April 22, 1940 (54 Stat. 150; 33 U. S. C. 180), § 202.8 establishing a special anchorage area wherein vessels not more than 65 feet in length, when at anchor, shall not be required to carry or exhibit anchor lights in Mallets Bay, Lake Champlain, Vermont, is hereby amended as follows:

§ 202.8 *Malletts Bay, Lake Champlain, Vt.* The southwesterly portion of Malletts Bay, south of Coates Island and west of a line bearing 170° true, from the most easterly point of Coates Island to the mainland.

[Regs., June 23, 1953, 800.212 (Malletts Bay, Vt.)–ENGWO] (54 Stat. 150; 33 U. S. C. 180)

WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-6237; Filed, July 14, 1953; 8:49 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket Nos. 10213, 10241]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICE

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

PART 14—RADIO STATIONS IN ALASKA OTHER THAN AMATEUR AND BROADCAST

MISCELLANEOUS AMENDMENTS

In the matter of amendment of Parts 2 and 8 of the Commission's rules and regulations concerning the allocation and assignment of frequencies in the bands 4177–4187 kc, 6265.5–6280.5 kc, 8354–8374 kc, 12,531–12,561 kc, 16,708–16,748 kc, and 22,220–22,270 kc; Docket No. 10241. And in the matter of amendment of Part 8 of the Commission's rules and regulations concerning the inauguration of use of ship telegraph calling frequencies between 4 and 23 Mc as provided by the Geneva (1951) Agreement. And in the matter of amendment of Parts 7, 8, and 14 of the Commission's rules to provide for the establishment of ship-shore service-using telegraphy in the band 2035–2107 kc; Docket No. 10213.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of July 1953;

The Commission having under consideration its proposal in Docket No. 10213; and

It appearing, that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, notice of proposed rule making in Docket No. 10213, which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on June 11, 1952 (17 F. R. 5328) and that the period for the filing of comments has expired; and

It further appearing, that no unfavorable comment on the proposed amendments has been filed; and

It further appearing that by order (Commission Mimeo No. 89745) adopted May 20, 1953 in Docket No. 10241, the Commission finalized, effective October 1, 1953, certain amendments to Part 8 of the Commission's rules; and

It further appearing, that for purposes of clarity the text of the Part 8 rules amendments in Docket No. 10213 should be integrated with the text of those in Docket No. 10241 and that any changes made in either text are editorial in nature; and

It further appearing, that the public interest, convenience and necessity will be served by the amendments herein ordered, the authority for which is contained in sections 303 (c), (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That effective October 1, 1953, Parts 7, 8 and 14 of the Commission's rules are amended as set forth below and that the text of this amendment be substituted for that contained in items 2, 3, and 4 of the Commission's order of May 20, 1953 (Commission Mimeo No. 89745) in Docket No. 10241.

(Sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: July 6, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

1. Section 7.132 (a) (1) is amended by inserting in numerical order in the table of subparagraph (a) (1) the frequency band and class of emission as follows:

2035 to 2065 kc: A1 and for brief testing A0.

2. Section 7.134 (b) is amended by inserting in numerical order in the table expressing transmitter power the following frequency band and associated power:

2035 kc to 2065 kc: 6.6.

3. Section 7.206 (a) is amended as follows:

a. Designate the first table of frequencies as subparagraph (1).

b. Designate the second table of frequencies and the sentence immediately preceding that table as subparagraph (2).

c. Designate the third table of frequencies and the sentence immediately preceding as subparagraph (3)

d. Add a new subparagraph (4) to read as follows:

(4) Each of the following frequencies is available for assignment to coast stations at the respective locations indicated:

Frequency (kc)	For assignment to coast stations located primarily in [1] or in the vicinity of [2]
2036	Barnstable County, Mass.[1]
2037.5	San Francisco, Calif.[2]
2039	Florida (between latitudes 25° and 29°).[1]
2040.5	Boston, Mass.[2]
2042	Texas (east of longitude 95°; south of latitude 31°).[1]
2043.5	Savannah, Ga.[2]
2045	San Francisco, Calif.[2]
2046.5	New York, N. Y.[2]
2048	New Orleans, La.[2]
2049.5	Florida (between latitudes 25° and 29°).[1] Los Angeles, Calif.[2]
2051	Jacksonville, Fla.[2] New York, N. Y.[2] Hawaiian Islands.[1] Puerto Rico.[1]
2052.5	Texas and Louisiana (between longitudes 92° and 95°; south of latitude 31°).[1]
2054	New Jersey (south of latitude 40°; east of longitude 74°, 30 minutes).[1]
2055.5	Mobile, Ala.[2] Los Angeles, Calif.[2]
2057	Florida (between latitudes 25° and 29°).[1]
2058.5	Grays Harbor and Pacific Counties, State of Washington.[1]
2060	State of New York (east of longitude 73°).[1]
2061.5	San Francisco, Calif.[2]
2063	Baltimore, Md.[2] Seattle, Wash.[2] Galveston, Tex.[2]

4. Section 7.206 (b) is amended by adding a new subparagraph (1) to read as follows:

(1) Pending clearance of the band 2035–2107 kc in accordance with the Agreement concluded at the Extraordinary Administrative Radio Conference (Geneva, 1951) each of the assignable frequencies designated in paragraph (a) of this section within the band 2035 to 2065 kc inclusive may be authorized for use by coast stations on a "day only" basis upon the express condition that harmful interference will not be caused to stations which, in the discretion of the Commission, may have priority on the frequency used by the station to which interference is caused.

5. Section 7.207 is amended by adding a new paragraph (e) to read as follows:

(e) The normal calling frequency to be used by each coast station employing telegraphy when operating in the band 2035–2065 kc is its normal working frequency in this band. In addition to the transmission on the authorized working frequency in this band, coast stations may transmit on any frequency within the ship station calling band 2083.5 to 2093.5 kc for transmission of distress traffic exclusively.

6. Section 8.105 is amended by adding a new paragraph (d) to read:

(d) Each ship station using, when in Region 2, telegraphy on frequencies within the band 2065 kc to 2107 kc shall be capable of transmitting and receiving class A1 emission on at least one radiochannel in this band authorized for working in addition to a radio channel in this band authorized for calling.

7. Section 8.131 (b) is amended as follows: Change the text of item (5) under "Frequency ranges" to read—

(5) For emergency transmitters intended for use solely in lifeboats or other survival craft to be used on the telephone distress frequency 2182 kc or on the telegraph calling frequency 2091 kc.

8. Section 8.132 (a) is amended as follows: Insert in item (1) under "Frequency band and classes of emission authorized'" a new entry, in numerical order to read:

2065–2107 kc: A1 and for brief testing A0; except for stations on board survival craft which may use, in addition, class A2 emission.

9. Section 8.321 (a) is amended as follows:

a. Subparagraph (1) is amended to read as follows:

(1) Each of the specific frequencies in kilocycles hereinafter designated in this paragraph may be authorized as an assigned frequency for use by ship stations (public or limited) employing telegraphy in accordance with the provisions of paragraph (b) of this section and Subpart E of this part.

143 calling	8250
152	8260
153	8280
154	8300
155	8320
156	8330
157	12,360
158	12,375
[1] 410	12,390
425	12,420
[1] 444	12,440
448 (region 2 only).	12,450
	12,460
454	12,480
468	16,480
[1] 480	16,500
500 calling and distress.	16,520
	16,530
4140	16,560
4150	16,575
[1] 4160	16,590
[1] 4165	16,600
[1] 6210	16,605
6220	16,640
6230	16,660
8240	

Footnote 1b is deleted.

b. Subparagraphs (2) (3) (4) and (5) and footnote 1a are deleted.

10. Section 8.322 (b) is amended to read as follows:

(b) The frequency 8364 kc is designated as the assigned frequency for the use of survival craft equipped to transmit on frequencies within the band 4,000 kc to 23,000 kc and desiring to establish with stations of the maritime mobile service, communications relating to search and rescue.

11. Section 8.323 (c) is revised to read as follows:

(c) In Region 2, the frequency 2091 kc is the international calling frequency for ship stations using telegraphy within the band 2065–2107 kc. It shall be used for call; reply and signals preparatory to traffic by all ship stations using telegraphy to establish communication with other ship stations operating in the band 2065–2107 kc or with coast stations using telegraphy and operating in the band 2000–2850 kc; *Provided,* That transmission by ship stations for this purpose on any calling frequency within the band 2088.5–2093.5 kc is permissible as a practical operating procedure to minimize interference, in lieu of transmission on the frequency 2091 kc. The use of the frequency 2091 kc or any other calling frequency within the band 2088.5–2093.5 kc by ship stations for purposes other than those stipulated in this paragraph (except for transmitting distress traffic) is not authorized. A ship station, after establishing communications on a calling frequency within this band, shall change to an authorized working frequency for the transmission of traffic.

12. Section 8.323 (d) is amended to read as follows:

(d) Each of the specific frequencies between 2 Mc and 23 Mc designated in table 1–b of Appendix 3 to this part may be authorized in accordance with Appendix 3 as an assigned calling frequency for use by public or limited ship stations [2a] or, where specifically so indicated by Appendix 3, by aircraft stations for establishing communication with stations of the maritime mobile service.

13. Section 8.324 (e) is amended to read as follows:

(e) In addition to the frequencies designated by paragraph (a) of this section for working; working frequencies are available for assignment, in accordance with Appendix 3 to this part, as follows:

(1) For use by ship stations (public or limited) on board passenger ships, and by aircraft stations for communication with stations of the maritime mobile service, each of the specific frequencies designated in table 1–a of Appendix 3 to this part in the following bands:

2065–2107 kc.[2b] [2c]
22,070–22,220 kc.

(2) For use by ship stations (public or limited) on board cargo ships, each of the specific frequencies designated in table 1–c of Appendix 3 to this part in the following bands:

2065–2107 kc.[2c]
22,270–22,400 kc.

14. Section 8.324 (g) (1) is amended as follows:

After "Provided" in the last portion of the text, between "* * * below 160 kc * * * " and "* * * the emission" insert the following: "and within the bands 2000 to 2850 kc and 17,000 to 25,000 kc".

15. Section 14.33 is amended by adding a new paragraph (c) to read:

(c) Working: 2052.5 kilocycles; A1 emission only, maximum authorized transmitter power 150 watts.[11a] [11b]

16. Section 14.33 (a) is amended by adding reference [11a] after "power 265 watts."

17. Section 14.33 (b) is amended by changing "maximum power 200 watts" to read "maximum authorized transmitter power 265 watts." [11a]

18. Section 14.54 is amended by adding a new paragraph (c) to read:

(c) For communication by means of telegraphy with coast stations in Alaska when the coast station transmits on the frequency 2052.5 kilocycles, each ship station shall transmit by means of class A1 emission only on one of its assigned frequencies within the band 2065–2107 kc exclusively, in accordance with the applicable provisions of Part 8 of this chapter.[11b] When the ship station is within the territorial waters of Alaska, the maximum plate (anode) input power shall not exceed 150 watts when transmitting on a frequency within this band; this limitation shall apply without regard to the maximum power authorized to be used on such frequencies by the station license.

[F. R. Doc. 53-6146; Filed, July 14, 1953; 8:45 a. m.]

[2a] Use of frequencies in the band 2065–2105 by ship stations is authorized on a day only basis and subject to the condition that harmful interference will not be caused to stations which, in the discretion of the Commission, may have priority on the frequency used by the station to which interference is caused.

[2b] Frequencies in this band are not assignable to aircraft stations.

[2c] Use of frequencies in this band by ship stations is authorized on a day only basis and is subject to the condition that harmful interference will not be caused to stations which, in the discretion of the Commission, may have priority on the frequency used by the station to which interference is caused.

[11a] The term "authorized transmitter power" is defined to mean, "the total plate input power to all electron tubes of the last radio stage of the transmitter which are used to supply radio-frequency power to the antenna."

[11b] Pending clearance of the band 2065–2107 kc in accordance with the Agreement concluded at the Extraordinary Administrative Radio Conference (Geneva, 1951) the frequency 2052.5 kc and each of the assignable frequencies within the band 2065–2107 kc may be authorized for use on a day only basis upon the express condition that harmful interference will not be caused to stations which, in the discretion of the Commission, may have priority on the frequency used by the station to which interference is caused.

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

SOUTHEASTERN ALASKA AREA

Basis and purpose. On the basis of facts obtained by field representatives of the Fish and Wildlife Service concerning the relative abundance of herring in Southeastern Alaska and the unexpected intensity of fishing for that species in the vicinity of Sitka, and as a result of conferences with industry representatives, it has been determined that the following changes in the Alaska commercial fisheries regulations are necessary to properly protect the fishery resource.

The following amendment is adopted, therefore, to become effective immediately upon publication in the FEDERAL REGISTER.

PART 116—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

Section 116.6b is amended to read as follows:

§ 116.6b *Restricted and prohibited, near Sitka.* All fishing is prohibited in Silver Bay east of 135 degrees 15 minutes west longitude, and fishing, except for bait and except by gill nets, is prohibited in Krestof Sound and Sitka Sound east of a line extending from Cape Edgecombe to Point Woodhouse on Biorka Island, and thence to the eastern extremity of Elovoi Island.

PART 122—SOUTHEASTERN ALASKA AREA, CLARENCE STRAIT DISTRICT, SALMON FISHERIES

Section 122.8 is amended to include paragraphs (a), (i), (j), (k), (l), and (m) of § 124.8 which hereafter are designated paragraphs (nn), (oo), (pp), (qq), (rr), and (ss) respectively.

§ 122.8 *Areas open to traps.* * * *

(nn) Annette Island: East coast from Harbor Point to a point at 55 degrees 0 minutes 48 seconds north latitude, including Ham Island.

(oo) Annette Island: South coast from the southern extremity of Davison Point

northeasterly to a point at 55 degrees north latitude, 131 degrees 35 minutes 42 seconds west longitude.

(pp) Percy Islands: Coast along the west and north sides of the westernmost island of the Percy Islands group.

(qq) Duke Island: East coast within 1,000 feet of the outer extremity of Flag Point.

(rr) Duke Island: East coast within 2,500 feet of Duke Point.

(ss) Kelp Island: Southern coast from a point at 131 degrees 16 minutes 0 seconds west longitude to the eastern extremity of the island.

PART 124—SOUTHEASTERN ALASKA AREA, SOUTHERN DISTRICT, SALMON FISHERIES

Section 124.8 is amended by deleting paragraphs (a) (i) (j) (k) (l) and (m) which have been included under § 122.8 and redesignated paragraphs (nn) (oo), (pp), (qq), (rr), and (ss), respectively.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

JOHN L. FARLEY, *Director.*

JULY 9, 1953.

[F. R. Doc. 53-6220; Filed, July 14, 1953; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 903]

HANDLING OF MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at St. Louis, Missouri, on March 2–6, 1953, pursuant to notice thereof which was published in the FEDERAL REGISTER on February 26, 1953 (18 F. R. 1114) upon proposed amendments to the tentative marketing agreement and to the order as amended regulating the handling of milk in the St. Louis marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof the Assistant Administrator, Production and Marketing Administration, on May 20, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. Said decision, including opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER on May 23, 1953 (18 F. R. 2983).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

Rulings contained in the recommended decision upon proposed findings and conclusions submitted by interested persons are confirmed except as modified by the findings and conclusions set forth herein. To the extent that findings and conclusions proposed by interested persons and not ruled upon in the recommended decision are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues of record related to:

1. Whether the pooling of returns from the sales of producer milk should be changed from the present individual handler basis to a market-wide basis;

2. The establishment of standards which a city or country plant must meet in order to be recognized as a regulated plant, fully subject to the order;

3. The need for order provisions which are necessary to prevent unregulated and unpriced milk from supplanting the milk of pool producers in Class I;

4. The level of the Class II price;

5. The level of the Class II butterfat differential;

6. The differential to be added to the basic formula price during different months in establishing the Class I price;

7. The level of the Class I butterfat differential;

8. The level of the producer butterfat differential;

9. The sequence in which milk sold as Class I ungraded milk outside the marketing area shall be assigned to producer and other source milk;

10. Circumstances under which diversion of producer milk should be recognized;

11. The status of cooperatives as handlers under the order in connection with milk diverted by them to unregulated plants;

12. The assignment of cream transferred between regulated plants for manufacturing purposes;

13. The priority to be given Federally regulated other source milk in the assignment of Class I sales;

14. The base and rate of the administrative assessment;

15. Miscellaneous administrative and conforming changes in the order.

Findings and conclusions. The following findings and conclusions on the material issues are based upon the evidence introduced at the hearing and the record thereof.

1. *Basis of pooling.* Returns from the sale of milk in various classes should be distributed to producers on the basis of a market-wide equalization pool. Such a pool will provide that each producer supplying the market will receive a return based on his pro rata share of the Class I sales of the entire market.

Since the order was first promulgated, it has provided that the Class I sales of each handler be shared only among the producers delivering milk to that handler. This method of distributing returns has meant that each handler's minimum blend price to his producers depended upon the proportion of his milk sold in each class. The blend prices of handlers having a high proportion of Class II milk were low in comparison with those who were short of milk in relation to their Class I sales. Producers were attracted to those handlers having the greatest need for milk for Class I use. This system was necessary and it worked well for many years as a means for moving producer milk to the handlers who were in a position to use it in the highest valued outlets. Rationing of milk to handlers according to their Class I requirements was a paramount need while the supplies available in the St. Louis milkshed were short in relation to the demand.

Changes in the relationship between supply and demand have altered this situation, however, and different measures are now required to insure orderly marketing of milk. The primary problem of the St. Louis market is no longer one of apportioning a limited quantity of milk among handlers, but is one of providing a means under the order for facilitating the establishment and maintenance of adequate and regular sources of milk for the market needs. Evidence in the record indicates that, generally speaking, adequate milk to supply Class I needs is available in the milkshed area.

There are important reasons why the milk supply picture in St. Louis has changed in recent years. One is the general increase in fluid milk production throughout the milkshed area. Milk supplies have advanced in relation to demand. Other markets in the general area have acquired ample supplies of milk. Since the end of World War II, the general shortages of fluid milk have largely disappeared. More recently, an increasing number of producers have become qualified by health departments to supply the St. Louis marketing area. Still more could be qualified if needed. Increased commercialization of dairying, improved methods of handling milk, adoption of uniform ordinances and increased use of reciprocal arrangements

between health departments, State Grade A labeling laws, and court decisions which have discouraged possible exclusions under the guise of sanitary regulations, all have combined to extend the eligibility of milk to enter the St. Louis marketing area. Improved transportation facilities have made it easier for this milk to be moved. In spite of these changes, however, the St. Louis market has been short of milk, as evidenced by the importation of substantial outside supplies. The handler pool has not worked well in St. Louis as a long-run measure to assure that the increased supplies of milk would become associated with and available to the market. Indications are, in fact, that such a pool has been an obstacle to obtaining and holding a full supply of milk for the market.

The obvious reason for this is the inability of the market under a handler pool to provide for the equitable sharing among producers, during the flush production season, of the lower returns on an adequate volume of reserve milk. Many handlers under the St. Louis order are not equipped to process surplus or reserve milk in their plants. The operations of these plants are geared primarily to the distribution of fluid milk, and they depend on supplemental milk to fill out their needs during periods of seasonal shortages. The volume of milk in some of these plants is insufficient, in fact, to permit the establishment of an efficient surplus disposal operation. Under the handler pool such plants operating on a fluid milk basis pay a higher blend price than plants which carry reserve supplies of milk. As a result, handlers who might otherwise carry enough reserve milk for their own Class I needs, and perhaps for the needs of other handlers, are unable to do so. The acquisition of extra milk immediately lowers their blend prices and acts as an automatic deterrent to producers who would be in a position to produce and sell the handler the additional quantities of milk needed to assure adequate supplies. Thus, the maintenance of a year-round market for producer milk which might otherwise be needed only on a seasonal basis is impeded.

The effects of these gradual changes have recently been brought into sharp focus. An unusual upsurge in the production of milk in early 1953 brought milk supplies to a more nearly adequate level than has prevailed for many years. Receipts of producer milk have been less than Class I sales during each of the months of October through December for many years. In October and November 1952, producer milk was still short, but in December 1952 local production had increased to the point where supplies exceeded Class I sales by about 6 percent. Supplemental milk required in January 1953 amounted to less than one-tenth of that required in January of the two preceding years. Nevertheless, 380 thousand pounds of milk and skim milk were imported during January from sources other than producers.

Even though the market was still short of its needs on an annual basis, handlers felt that they were carrying more milk than they could afford to keep. Three of the 12 country plants under the order have recently been turned over to producer organizations. Other producers have been threatened with the loss of their market. These threats to producers' markets are, at least in part, a manifestation of the competitive characteristics of the handler pool which make it necessary for each handler to keep supplies tailored rather closely to Class I needs in order to keep his producer pay price at a suitable level. Producers whose milk is not retained by handlers are faced with the loss of any share of the Class I market. There is no reason to expect that producers will maintain Grade A production in the summertime while selling to milk manufacturing plants in order to sell Grade A milk in the winter. This would not result in an orderly market or a dependable supply of milk.

To the extent that a handler pool interferes with the establishment and maintenance of adequate milk supplies for the St. Louis market, it does not effectuate the declared policy of the marketing agreement act. The Secretary is required under this act to fix prices which will reflect various economic factors and insure a sufficient quantity of pure and wholesome milk. Evidence in the record indicates that handlers are not willing to accept the quantity of milk which producers are willing to supply with present order prices, yet all of this milk is needed in the market for the operations of handlers' Class I business. At the present level of supply, many handlers still are not fully supplied with milk on a year-round basis. It is considered necessary, therefore, in order to effectuate the declared policy of the act, that a market-wide pool be adopted in the St. Louis market for the distribution of returns to producers.

Under a market-wide pool the prices set by the order would be more effective in determining the level of milk supplies since the price incentive to producers to supply milk will be allowed to operate more freely. Those producers producing milk most efficiently would serve as the source of supply. Additional producers could readily be added if they cared to produce milk at the prices prevailing under the order. This will avoid an undesirable situation where producers might be selectively dropped from the market or others would be denied a market, even though they might be willing to produce and ship milk at the prices being paid.

Evidence in the record indicates producers themselves are aware of the change in market supply conditions and recognize to a greater extent a need to share Class I sales equally among all producers in order to maintain a stable market for all producers whose milk is regularly needed each year.

2. *Pool plant standards.* The operation of a market-wide pool requires that an equalization fund be established as a clearing house for receiving money from handlers according to their utilization of producer milk and for disbursing money back to handlers for payment at a uniform rate to all producers. This process, although it is an essential part of a market-wide pool, is accompanied by some problems which must be dealt with in order to insure the satisfactory operation of the pool.

Since the market-wide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his rate of pay to producers will be the same as that of all other handlers in the market. An order with a market-wide pool must be drafted, therefore, in such a way as to insure that producer milk will be available for Class I use as needed.

It is essential, also, that the rules for distributing the returns from Class I sales be such that the differentials over manufacturing milk values paid by users of Class I milk will serve the purpose for which they are intended. Class I milk prices of the order are fixed at a level which exceeds the value of the milk for manufacturing uses by a varying amount. This premium, or differential, over the manufactured milk price is essential as an incentive to producers for producing milk of the quality required and at the time needed by consumers. Extra costs are involved in providing sanitary surroundings for the dairy herd, and in maintaining milk production during the fall and winter months when feed and housing costs are high. Extra costs are involved also in handling milk for fluid use since it must be refrigerated, handled through sanitary utensils and facilities, and marketed promptly.

The extra costs thus involved to Grade A or fluid milk producers must be borne by that share of the milk which is marketed as Class I. Excess or surplus milk, although an essential part of a fluid milk business, cannot be expected to return more to producers than a manufactured milk value. The only outlet for reserve milk not needed for fluid use is in the form of manufactured products. Such products must be marketed in competition with similar products made from ungraded milk.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A standards be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not an essential part of the market supply would result in no extra value to consumers.

One of the primary problems, then, in setting up a market-wide pool is to establish rules which will provide for the sharing of Class I sales (Class I differentials) among the producers who are an essential and regular part of the St. Louis market. Class I prices must first be set as nearly as possible at the minimum levels which will encourage the necessary amount of milk production and the resulting returns should be distributed in such a way as to assure the

market of the maximum dependable supply of quality milk which can be obtained at these prices. In order to do this, provision is made that equalization of market sales should be only to plants meeting reasonable performance standards with respect to supplying milk to the market.

Performance standards should apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the market-wide pool and have its producers share in the Class I sales of the market. Any producer who meets the appropriate health department requirements should be permitted, under the order, to sell his milk to plants meeting the standards of qualification. Whether or not plants and producers choose to supply the St. Louis market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the market-wide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the St. Louis market. If a milk plant were to be permitted to share on a pro rata basis the Class I utilization of the entire market without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be subject to dissipation without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all St. Louis handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with the health department standards.

The mere circumstance of having obtained health department approval is not sufficient justification for equalizing the sales of such plant with the market. There are many plants having milk of suitable quality for sale in the marketing area which are in no way, or are only incidentally, associated with the market. There are at least 5 different health authorities having jurisdiction in various parts of the marketing area. In the absence of performance standards, approval by any one of these authorities would entitle a plant to participate in the equalization pool. There is no reason to assume that each of these health departments would refuse an application for approval because they had determined that the milk from an applicant plant was not entitled to pool with the market, or that the basis for such refusal would be uniform for each health authority, or that such standards as might be applied for this purpose would be appropriate to effectuate the declared policy of the act. It is concluded that these health authorities should not be placed in a position of determining which plants should share in equalization. As pointed out previously in this decision, the extension of uniform health department ordinances and other factors which have extended the eligibility of milk to enter the market have brought about a situation in which health department approvals may not be relied upon as a standard for determining which plants and which producers are primarily associated with the St. Louis market.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent reliable sources of milk on which the St. Louis market may depend. If such plants were allowed to sell a token quantity of milk in the St. Louis marketing area whenever their Class I sales were low, and then withdraw as their Class I sales were high, the results would be that the in-and-out handler would be able to gain advantage in paying producers. During unregulated periods when his utilization was largely in Class I, he might retain a larger share of the proceeds from his sales, since he would be selling at Class I prices and paying producers at a competitive blend price. Whenever his utilization dropped below average, he could fall back on to the pool and draw equalization payments to maintain his paying prices to producers.

The St. Louis market would have no compensating gain from the payment of equalization to such a handler. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, and thereby have an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required.

Performance standards must be flexible enough to allow a plant which is primarily associated with the St. Louis market to maintain its association with the pool under the changing conditions which occur from year to year, and yet not permit undesirable distribution of equalization payments to plants not part of the essential supply. The performance standards herein provided are designed to accomplish these various objectives as set forth. On the basis of evidence available, it appears that they should accomplish such objectives. If actual operating experience proves them inadequate, they should be revised on the basis of such experience.

Because of the difference in the marketing practices and demands upon the supply of milk from city distributing and country supply plants, two sets of performance standards have been provided. These standards and reasons therefor are set forth below.

(a) *Distributing plants.* In order to qualify as a pool plant, a city plant should be required to distribute at least 20 percent of its approved milk during the month as Class I on retail or wholesale routes to customers in the marketing area. Distribution of milk through vendors or plant stores should be included to the extent that sales through such outlets are in the marketing area. Most distributing plants dispose of more than 20 percent of their milk as route sales. All of the city plants now regulated under Order No. 3 appear to have route sales amounting to considerably more than 20 percent of their approved milk. A number of these plants are operating routes on the fringes of the marketing area, however, and an important share of the route sales from such plants are outside the marketing area. If the minimum percentage were increased above 20, a number of plants whose businesses are an important part of the marketing area supply might not be qualified as pool plants. Also, these plants tend to be closely competitive with St. Louis handlers from the standpoint of both purchases and sales of milk, and should be brought under full regulation.

A city plant having more than 80 percent of its business outside the marketing area or in other outlets should not be considered as essentially associated with the market as a distributing plant. Such a plant is selling primarily to an unregulated market. It is not considered advisable to bring such a plant under full regulation in order to control the minor share of its business which is in the marketing area. Full regulation would not be necessary to accomplish the purposes of the order and might well place such a plant at a competitive disadvantage in relation to other dealers supplying the unregulated market.

Few, if any, of the city plants now regulated under Order No. 3 would be excluded from equalization as a result of the performance standards herein provided. Such a minimum percentage is considered necessary, however, to avoid full regulation in the future of plants operating primarily outside the marketing area which might sell a minor quantity of milk to customers located in the fringes of the marketing area. Such a minimum is necessary also to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distributions of fluid milk and Class I products should be qualified as pool plants under this definition. In order to preserve this distinction, a further condition is placed on city plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount to at least 50 percent of their receipts during the month of milk from producers and from country plants. Any plant which does not qualify on this basis should be deemed to be primarily a reserve supply plant and its status under

the pool should be judged by the standards applied to such plants.

No seasonal variation is provided in the minimum percentage since distributing plants do not undergo the wide seasonal variations in demand for Class I milk that are experienced by supply plants. Also, plants which are primarily in the distributing business, as assumed under this definition, ordinarily maintain themselves primarily in the Class I business throughout the year. Wintertime supplemental milk is usually obtained as required from reserve supply plants.

(b) *Supply plants.* In order to qualify as a pool plant, a supply plant should dispose of at least 50 percent of its receipts of milk from producers in the form of supplemental supplies of milk, skim milk or cream shipped to distributing plants which need such supplies for Class I use, including any milk distributed on routes from the supply plant to wholesale or retail outlets in the marketing area. It is concluded that a plant should not be qualified as a pool plant and equalize in the sales of the market unless more than half of the milk from such plant is disposed of in this manner.

It is recognized, however, that the demands for milk from supply plants is rather seasonal. The primary function of most country plants, particularly those on the fringes of the milkshed, will be to furnish milk to distributing plants during the season of low production. In the months of flush production, supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the summertime where it must be manufactured in order to maintain the eligibility of country plants to pool.

To avoid this, a proviso has been incorporated into the supply plant standards which allows a country plant to maintain pool status throughout the year if it supplies certain proportions of its producer milk to distributing plants needing the milk for their own Class I use in the months when milk production tends to be lowest. These percentage standards should require that a supply plant provide such distributing plants with needed milk to the extent of three-fourths of its approved milk received in each of the two months of lowest production, October and November. During three additional months of the August through January period, the plant must ship approximately one-third of its producer milk received during the month to distributing plants needing the milk. During one of the six months, the plant will not be required to supply any milk to the market. Percentage figures would be determined for each month on the basis of volume of receipts from producers and approved milk from pool plants, compared with the pounds of milk, skim milk and cream shipped during the month.

This provision allows considerable flexibility to supply plants since they may vary their shipments throughout the low production season according to the time when the market has the greatest need for the milk. On the other hand, it is considered that, unless the foregoing percentages of producer milk are required from a country plant, such plant cannot be considered to be primarily associated with the St. Louis market.

Special standards should be provided for determining whether supplemental milk is needed or how much is needed by distributing plants for their own Class I business. For this purpose, it should be assumed that the milk received directly from producers will be distributed first and reserve supplies will not be required until producer milk has largely been exhausted. Credit for reserve supplies of needed milk should not be extended to supply plants until the requirements of the distribution plant for milk to be distributed as Class I on routes exceed 85 percent of producer milk received at the distributing plant. The pounds of Class I milk distributed on routes in excess of 85 percent of the receipts of producer milk should be known as reserve supply credit. The distributing plant would be permitted to pass this credit back to supply plants to be applied toward their qualification as pool plants.

Such credit would be extended to country plants on a pro-rata basis up to the amount of milk, skim milk or cream actually supplied by the country plants unless the distributing plant specifies a different allocation of such credit. In no case, however, should the credit extended to any plant exceed actual pounds of milk, skim milk or cream received during the month from such plant. Calculation of percentages for supply plant qualification would be based then on a comparison of such reserve supply credit from distributing plants plus route sales in the marketing area with the volume of producer milk received at the reserve supply plant.

The requirement that reserve supply credit not be extended to supply plants unless milk is needed for Class I use is essential in order to avoid uneconomic movements of milk to city plants. A 15 percent cushion of Class II is allowed before a city plant loses eligibility to give full credit to the country plant for having supplied necessary reserve milk. This should allow for any reasonable fluctuations in the city plant's business, and not deny it country plant milk when needed.

If a supply plant sends in milk not needed by a distributing plant, such milk may be transferred and priced as Class I under the applicable provisions, but it will not provide a basis for pool plant eligibility. As explained at a later point in this decision, the cost of transportation will be borne by the plant operator and not by the pool when milk is moved unnecessarily. These measures should provide adequate safeguards against uneconomic shipments of milk from the country for the purpose of establishing pool plant status and still allow adequate freedom for necessary movements of Class I and reserve milk.

(c) *Continuation of status.* Evidence in the record indicates that, for the most part, plants regulated under the order during March 1953 should be considered as associated with the market and entitled to pool. Some of these handlers may need to watch their operations to insure continued eligibility. Minor adjustments may be necessary on the part of other handlers. In order to allow plant operators time for such adjustments and to observe the methods and means for qualification, provision is made that plants regulated under the order during March 1953 may, upon application, be designated as pool plants for a limited period after the effective date of any amendment issued pursuant to this decision. Each country plant would be designated as a pool plant until the end of a month in the next August through January period when it became obvious that it could not qualify under the special seasonal provision. Such disqualification might come, for example, if the plant received reserve supply credit amounting to less than 35 percent of its milk during each of the months of August and September. Under such circumstances, the plant would lose status as a pool plant at the end of September.

City plants under the order during March 1953 could, under the amended order herein provided, be designated as pool plants for two months after the effective date of such amendment without meeting the specified percentage standards, provided the operator of such plant submitted application to the market administrator on or before the tenth day after the effective date of such amendment.

These are merely transitional provisions, however. No plant should be given permanent status as a pool plant if it is not willing to meet the standards of qualification as required of all plants.

3. *Provisions relative to unpriced milk.* The order provisions described previously in this decision of necessity leave open channels by which unpriced milk may be disposed of for Class I use in the marketing area. If unpriced milk were allowed to be sold as Class I milk in the marketing area with no regulation whatsoever, the classified pricing system of the order would be seriously jeopardized.

Regulation of milk prices and enforcement of use classification by the government was considered necessary when regulation was first instituted in the St. Louis market, because producers were unable to insure that all milk used for fluid purposes would be paid for at a price commensurate with such use. The inevitable existence of excess or surplus Grade A milk in the market provided the seeds of price instability. That portion of the milk supply which had to be marketed as surplus returned only a manufactured milk value. Any handler who could purchase such milk at surplus prices and sell it for fluid or Class I use enjoyed a marked competitive advantage over handlers paying a full Class I price for such milk.

In the absence of any competitive or regulatory force which compelled all handlers to pay producers for milk used

in fluid outlets at a rate commensurate with its value for such use, the position of any handler who paid Class I prices was insecure, if not untenable, whenever there was surplus milk available to the market. In the absence of conditions which insure payments according to use, the prices paid producers for milk tend to be forced through competition toward the rate of returns obtainable from marginal outlets. Experience indicates that the marginal outlets are ordinarily butter or cheese. This is particularly true in the seasons of flush milk production. Prices resulting from such competition do not create orderly marketing nor assure an adequate or dependable supply of fluid milk throughout the year.

Under the regulations of the order, producers are assured that if their milk is used for Class I purposes it will be paid for at Class I prices. Such prices are set at levels which reflect the price of feeds and other economic conditions, and insure consumers of a sufficient supply of pure and wholesome milk.

A classified pricing program under regulation cannot hope to be successful in insuring returns to producers at rates contemplated by the act, however, if it is possible during temporary periods for some handlers to purchase milk which costs less than Class I producer milk and sell it for Class I use. Any handler who finds himself in a situation where his competitors are paying less for Class I milk than he is paying will be compelled to resort to the same methods, if possible. This could result in disorderly marketing and in partial or substantial displacement of producer milk in the Class I market. Handlers selling unpriced milk to Class I outlets could be expected to have different product costs at various times than those selling producer milk. In obtaining unpriced milk regular sources of supply might be abandoned by handlers thus creating insecurity for both themselves and producers as well as consumers.

Sale of unpriced milk and consequent displacement of producer milk can occur under the order if plants distributing milk in the marketing area simply shift their purchases of milk to unregulated sources. Any regulated milk in the plant would be assigned to Class I sales first, but all remaining sales would be assigned to unpriced milk. By restricting or discontinuing purchases of milk from regulated sources, a handler could distribute unpriced milk as Class I. Alternative supplies of milk for this purpose might be obtained from any unregulated source which was acceptable to the appropriate health authority in the marketing area. Such sources would not become regulated unless they met the pooling requirements for supply plants.

Producer milk might also be displaced to the extent that handlers not qualified under the performance standards of the order distributed milk directly to consumers in the marketing area. This would be possible to some extent since, under the provisions of the order attached hereto, a plant must distribute certain percentages of its milk in the marketing area in order to qualify for pooling.

It is concluded, therefore, that a provision is necessary in the order which will insure against the displacement of producer milk for the purpose of cost advantage. This is essential to preserve the integrity of the classified pricing program of the order. There is no choice as to what type of provision can be used, since minimum class prices may not be fixed for handlers who do not participate in market-wide equalization. The only alternative is to levy a charge against unpriced milk to the extent it is required for the removal of any advantage there may be in using unregulated milk in Class I instead of regulated producer milk.

Several problems are involved in establishing rules for any charge or payment designed to bring about the removal of the advantage of using unregulated milk. The rate of a compensation payment for this purpose must not be so low that it will permit a handler to gain temporary or permanent advantage through sale of unpriced milk as Class I in the marketing area. It should also not be so high that it penalize suppliers of unpriced milk who offer milk needed by the market and who are not in a position of gaining an unfair advantage by such sale of milk. The payment must be provided for in a manner which is administratively feasible and which does not bring about unjustified administrative inconvenience or expense.

Several methods were suggested on the hearing record for determining what rate of payment would be appropriate. One of these is to ascertain the actual cost to the regulated handler of milk which he purchases from unregulated plants and charge as a compensation payment any amount by which the Class I price exceeded the cost of the unregulated milk used in Class I. Such a scheme is not sound from the standpoint of administrative feasibility and it would not necessarily remove the advantage in using unregulated milk even though it were feasible. Billing prices between dealers may not represent actual cost. In the case of a firm which owns or controls pool plants under the St. Louis order as well as unregulated plants, the rate of payment from one plant to another if any were made would have little or no significance. If such a provision were to be adopted, the billing rate might be deliberately set in each instance at a level which would avoid any payments without regard to the value of the milk. There are a number of firms which control plants under the St. Louis order which also have unregulated plants.

A handler having no unregulated plants, would no doubt find it possible to arrange a billing price on purchased milk which would avoid any compensatory payments. If a handler had the choice of paying money to the market-wide pool or to a person from whom he was buying milk, he would probably choose the latter. A kick-back arrangement or offsetting purchase and sale might readily be arranged, perhaps through a third party. Since the billing price for milk would be a self serving figure for both parties to the transaction, it would be virtually impossible to ascertain that it represented true cost to the purchaser.

If the stated purchase price were a true cost, it would still not fulfill the purpose of removing the advantage to unregulated milk to base compensation payments on the difference between such price and the Class I price. The record discloses that sales of priced milk between regulated handlers ordinarily take place at the class price plus a handling charge. This handling charge varies according to circumstances, but represents a payment to the receiver of the milk to offset his purchasing and receiving costs, such as receiving, weighing, testing and cooling the milk, paying producers, profits and so on. The record indicates that the cost of receiving the milk in bulk form is somewhat less than receiving it from producers. Thus, in order to remove the advantage to unregulated milk, it would be necessary to provide that the cost of bulk unregulated milk be somewhat more than the Class I price. It would be exceedingly difficult to determine what this excess rate should be, particularly in the case of products such as skim milk and cream, where additional processing costs that must be prorated between more than one end product are involved. Furthermore, the marketing agreement act does not give the Secretary authority to enforce prices other than producer prices. This scheme for removing the advantage in using unregulated milk is rejected for these reasons.

Another suggested method is to determine the price actually paid dairy farmers by the unregulated milk dealer who first received the milk, and base the compensation payment thereon. This method has several shortcomings. The various payment plans which might be and are used in paying farmers for milk would make the determination of pay rates to each farmer an extremely complicated task. For example, unregulated milk dealers may use varying rates of butterfat differentials, different types of base rating plans, various premium payments, and so on. These various schemes used by dealers for paying farmers could make it impossible to determine the actual rate of payment. Stated prices can be an illusion since actual cost of milk may be modified by items such as hauling subsidies or overcharges, and all kinds of supplies and services which might be overpriced or underpriced to the farmer. Whatever payment plan an unregulated milk dealer may use is a matter of his own choice. Determination of pay rates to farmers by unregulated dealers is handicapped also by the lack of verification of butterfat tests and weights. In the case of cooperatives, part of the proceeds from the sale of milk is often distributed at the end of a fiscal year.

Various types of premium payments are common in the purchase of milk from farmers both by regulated and by unregulated handlers. These include such items as quality premiums, volume premiums, special butterfat premiums, and perhaps others. The proposed plan for equalization on the basis of pay rates

to farmers fails to recognize that order prices are minimum prices, and payments to producers under the order do not take into account various kinds of premiums paid producers. Regulated handlers would not be allowed to deduct premium payments from class prices. Neither should unregulated handlers, but there is no practical method of taking such payments into account under this suggested procedure.

Even though it were possible to establish with precision the actual cost of the milk purchased from farmers by unregulated handlers, this method would not provide a sound approach to the problem of establishing compensation payments. There would be the further question of what rate of payment should be required. If a payment were to be required on the unregulated milk based on the difference between prices paid farmers and some other price, the unregulated handler could avoid payments by increasing his prices to farmers. This would give an unregulated handler the advantage over regulated handlers in that regulated handlers have no choice as to what they are required to pay farmers nor how this money is to be distributed. Likewise, it would enable unregulated suppliers to dispose of Class I milk in the marketing area with no obligation to equalize their Class I sales with other suppliers of the market. A further disadvantage would be that even though the rate of payment to producers might be known, it would still be impossible to ascertain what was the true cost of milk disposed of in the marketing area. Since milk marketed outside the marketing area would represent most of the total supply in the unregulated plant, it would be necessary to determine payment for milk marketed to the various outlets. As pointed out subsequently in this decision, all handlers have both surplus as well as Class I milk in their plants and it is not realistic to assume that the purchase price for milk for each use is the same.

It has been suggested that in order to overcome this objection the plant of the unregulated handler be subject to audit and that the rate of compensation payment be based on the difference between the average utilization value in the unregulated plant and the average rate of payment to producers. This method would not recover the entire advantage of selling surplus milk as Class I in the marketing area. Also this method has not only the disadvantages associated with other schemes based on actual pay rates to producers, but it woud involve, in the case of the St. Louis market, an extremely complicated and administratively unfeasible system of accounting and determination in such plants. The unregulated plants from which the St. Louis handlers obtain supplemental milk are numerous and widely scattered. It would not be possible or desirable to limit the number of plants or area from which milk might be purchased. In order to determine the utilization value in each of the plants from which milk was purchased, it would be necessary to set up a complete new set of transfer and allocation rules, perhaps with individual tailoring, according to plant location, markets and supplies. It would be necessary to follow milk from these plants to its various destinations and uses to determine classification. Also, it would be necessary to ascertain sources of supply other than receipts directly from farmers and determine what priority should be given such supplies in the allocation of Class I milk. In the case of a plant which made only an incidental shipment of milk, perhaps at the end of the month, or in the case of such items as storage cream, additional complications would be involved. Earlier inventories as well as sales would have to be ascertained and classified. These measures would be expensive and difficult. Moreover, as pointed out above, it is not desirable to burden milk dealers who are not under regulation with the administrative procedures and bookkeeping that go with regulation. And yet, to make the detailed accounting necessary to establish classification, such unregulated dealers would need to maintain the same detailed records as wholly regulated handlers.

Another possible suggestion for determining the rate of compensation payments would be to base the rate of payment on the difference between blend prices prevailing in an area and the Class I price. This method has been suggested because it is assumed that unregulated handlers will be forced by competition to pay farmers approximately average blend prices. While this may be true in many instances, it is not necessarily always true, and a payment based on the difference between such prices could not be expected to insure that unregulated milk would not be used to displace regulated milk for cost reasons at all times throughout the year. Unregulated plants, as well as regulated plants, have some surplus milk at all times and particularly during the seasons of flush production. As a result, prices paid farmers are, in fact, blend prices made up of returns from the sale of milk in Class I outlets, as well as sales to the surplus market. If an unregulated plant were in a position to sell its surplus milk for Class I use in the marketing area and maintain its own Class I outlets, it would have a competitive advantage over regulated handlers who found it necessary to dispose of part of their milk as surplus.

In the absence of a compensation payment, the unregulated plant might sell its milk for Class I use in other markets at substantial handling charges whenever fluid milk tended to be in short supply, and then dispose of milk for Class I use in the St. Louis market to maintain its blend price during the season of flush production when Class I sales elsewhere were difficult to make. A plant which could thus keep its disposition of milk largely as Class I and avoid qualification as a pool plant would be in a position to pay its farmers at a higher rate than that received by producers under the order, or it could retain the extra money as profits. In either case, however, pool milk would be at a disadvantage relative to unregulated milk.

Since none of these suggestions presents an acceptable approach to the problem of compensation payments, it is necessary to resort to a different procedure. The only sound method of dealing with this problem seems to be one based on a recognition of the economics involved as they affect producers and handlers. This approach resolves itself primarily into a question of market values for milk.

Handlers under the order seeking to purchase unregulated milk will naturally resort to the lowest cost source from which suitable milk is available. In fixing the rate of compensation payment, it is necessary, therefore, to determine what the lowest cost source may be and to base the payment on the difference between the cost of such milk and the cost of milk priced under the order for similar use. The record contains abundant evidence to show that milk supplies are invariably larger in spring and summer than in fall and winter, and that because of relatively constant sales of fluid milk, the excess increased production must be marketed largely as surplus milk. This surplus outlet represents the opportunity cost of the milk since it is the highest price at which the milk can otherwise be sold. It is this opportunity cost or value of such milk which would be effective in determining the price at which the unregulated plant would sell such milk. The asking price of the unregulated handler would be expected to be only the price which he would obtain if the milk were disposed of for surplus use.

Since considerable volumes of Grade A milk must be disposed of as surplus in various unregulated plants throughout and beyond the milkshed area, it is evident that regulated plants under the St. Louis order could obtain such milk at prices equal to its value as surplus milk. In short, the true value of this milk is not the blend price paid producers but rather the price which can be obtained for it in the market when disposed of as surplus milk.

For the months of March through July, during which periods surplus milk is likely to be available to the St. Louis market from non-pool sources in substantial volumes, the compensation payment on non-pool milk or milk products used for Class I uses is based, therefore, on the difference between the minimum price of producer milk used for surplus and the applicable Class I price under the St. Louis order. The Class II price established by the order is a fair and economic measure of the value of milk in surplus uses whether received from producers at pool plants or from other farmers at non-pool plants. In calculating the payments on non-pool milk both the Class I and surplus values must relate to and be fixed as of the point when the milk is received from farmers at the first receiving plant, so as to be properly comparable with minimum class prices which always attach to producer milk at that level of marketing. No allowance should be made for subsequent handling charges and profits in this farm level comparison between pool and non-pool milk because such handling charges and profits attach at stages of marketing subsequent to the basing point to which minimum class prices for pool milk refer, and are in no way regulated by the order with respect to pool milk. Neither

the act nor the order contemplates, authorizes or provides for the regulation of subsequent handling charges or profits or the establishment of uniform resale prices between handlers, whether the milk be pool or non-pool.

During the months of August through February when milk supplies tend to be shorter, it is concluded that other source milk will not be available to handlers in the St. Louis market at surplus prices and the compensation payment is based during those seasons on the difference between the Class I and the blend prices under the order. Evidence in the record indicates that, generally speaking, during the months when milk is short the supply of producer milk in the St. Louis market in relation to the demand for such milk will tend to fluctuate with conditions in the general area from which unpriced milk may be available to the St. Louis handlers. Thus, the rate of compensation payment based on the difference between Class I and blend prices will adjust itself automatically according to the trend in prices of and need for outside supplies. If supplies of pool milk are relatively plentiful, the rate of payment will be somewhat higher. On the other hand, as milk supplies in the area tend to be short, non-regulated milk will cost these handlers more than the surplus price and the rate of compensation payment will be correspondingly less. If producer milk were all assigned to Class I, no compensation payment at all would be required.

Under these condition, therefore, if a handler purchases non-pool milk to which a compensation charge applies, he ordinarily would do so because the cost to him of such non-pool milk, including the compensation payment, is less (or at least not greater) than the price he would need to pay to obtain pool milk. This would be so even when the total cost of non-pool milk exceeds the Class I price because the cost of obtaining pool milk will also ordinarily be greater than the Class I price for the reason that the receiving handler of pool milk, when selling to another handler, will add charges to the Class I price to compensate for receiving, weighing, testing, cooling, and transshipping such milk. He also may have paid a premium to producers over minimum order prices. He will also add a charge for profit which may vary widely from time to time in accordance with market conditions. In short, when compensation payments apply, a handler will always have the alternatives of buying either pool milk or non-pool milk and his decision ordinarily will be dictated by the alternative which appears more favorable to him.

It is concluded here that the rate of compensation payment to be applied at any time should be a single rate (i. e. either the difference between the Class I price and Class II price, or the difference between the Class I price and the blend price) and such rate should be that which is applicable to the cheapest non-pool milk which it is believed will be available at a particular time. This is chosen as the standard for determining the compensation payment because if any milk is available on more advantageous terms than those applicable to regular supplies of milk, an incentive will be afforded for seeking—indeed all handlers will be impelled to seek—out all available supplies of non-pool milk which may be obtained at the greatest possible advantage over pool milk, thus creating disorderly marketing conditions and otherwise defeating the purpose of the order.

Moreover, regulated handlers would be in varying degrees of disadvantage depending on the proportion of non-pool milk which they were able to obtain and utilize in Class I milk. Those handlers who were able to obtain and utilize only a small proportion of low-priced non-pool milk would be at a disadvantage relative to those handlers who were able to obtain and utilize in Class I a higher proportion of non-pool milk. All pool handlers similarly situated should be treated equally in the procurement of their milk from producers and other sources and no provision should be contained in an order which would allow some handlers to gain unfair advantage over other handlers in the procurement of milk.

By choosing a rate of compensation payment which reflects the cost of the cheapest milk which may be expected to be available, any advantage to individual handlers relative to others, in obtaining such cheap milk and substituting it for producer milk in Class I, is removed insofar as administratively possible and no handler is given the clear opportunity to gain an unfair advantage which otherwise would exist. Although the unfair advantage of obtaining non-pool milk is removed by the particular rate of payment herein provided, nevertheless if other source milk is to be purchased, the incentive for purchasing the cheapest of such milk remains; for the lower the price which a handler pays for non-pool milk, the lower will be his total cost of purchasing such milk. This follows from the fact that the measure of the compensation payment is an objective one and does not depend upon the particular price which the handler paid for the non-pool milk.

It should be emphasized again that the purpose of the compensatory charge is merely to remove the disparity as between pool and non-pool milk at the initial marketing level when the pool or non-pool milk is received from farmers. The marketing order makes no effort to fix or equalize handling charges and profits on pool milk which attach subsequent to such initial marketing stage. Similarly subsequent handling charges and profits on non-pool milk will vary as between non-pool handlers. It is thus to be expected, that some pool milk will be less expensive than other pool milk, as sold between handlers, and that some non-pool milk may be more or less expensive than some pool milk at the same later market level, even though the compensatory charges have removed competitive disparities between pool and non-pool milk at the farmer level of marketing.

It is concluded that the compensation payments herein provided are not only incidental, but necessary to sustain the classifications and pricing of milk according to its use in the market, and that the rates of payment specified are those which are necessary and appropriate to accomplish this purpose.

Testimony in the hearing record concerning availability of milk supplies to St. Louis handlers indicates that the rate of payment recommended here will equalize the competitive position of priced and unpriced milk, and will avoid displacement of producer milk for reasons of cost. However, if experience proves that milk is available to handlers during the fall and winter months at prices lower than those anticipated, then it will be necessary to reconsider the rate of compensation payment on the basis of that experience. Likewise, if experience should prove that pooled handlers find it to their advantage to curtail purchases of producer milk in order to enable themselves to sell unpriced milk in the market at any time, then the rate of compensation payment would need to be reexamined on the basis of such evidence.

In addition to that non-pool milk which will enter the marketing area through pool plants, some non-pool milk will be distributed within the marketing area from distributing plants which are non-pool plants and the milk from such plants will be non-pool milk. The compensation charges applicable to non-pool milk disposed of in the marketing area from distributing plants which are non-pool plants should be the same as those applicable to non-pool milk distributed from pool plants discussed above. It would not be possible to stabilize the classification pricing program and allow milk to be distributed from non-pool distributing plants in the marketing area. Such milk is classified and priced the same through the classification pricing program as unpriced milk distributed through any other channels.

Handlers distributing such unpriced milk in the marketing area from non-pool distributing plants have the same opportunity to buy milk at the opportunity cost level as do the operators of pool plants who purchase non-pool milk. Such milk may be purchased and distributed in the marketing area. In addition, however, the operator of the non-pool plant in all probability has surplus milk in his own plant which he would want to dispose of on any basis which would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the marketing area by bidding for large contracts such as hospitals, defense establishments or large institutions. With surplus outlets as the alternative, and no compensation payments to make, the non-pool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. A non-pool plant might also use such price advantage in selling his surplus milk to Class I outlets for the purpose of establishing a regular trade on retail or wholesale routes to homes and stores in the marketing area. The non-pool plant might sell up to 49 percent of its milk into the marketing area as Class I without becoming subject to regulation. To allow a non-pool plant to use its surplus milk in this manner for estab-

lishing a regular trade in the marketing area without compensation payments would mean that such plant would have a marked competitive advantage over regulated handlers, selling priced milk. Such conditions could readily lead to disorderly marketing conditions.

It is considered inappropriate also that a plant distributing a small share of its milk in the marketing area should be subject to full regulation because of that small share of its milk so marketed. Such regulation might place a plant of this kind at a competitive disadvantage with respect to its unregulated competition. In some cases a non-pool plant may be disposing of a larger share of its milk as Class I than the average utilization for the market. In such cases the compensation payments herein provided might cost the handler less than the equalization payments such plant would pay if fully regulated as a pool plant. In these instances the sale of small quantities of milk in the marketing area would be more likely to take place by the use of compensation payments rather than extending full regulation to plants.

The rate of compensation payment provided for non-pool plants making distribution directly in the marketing area is the same as that for pool plants which obtain and use unpriced milk in Class I. The administrative feasibility of any other method of levying compensation payments is substantially the same as that described in the case of unpriced milk distributed in the marketing area by pool plants.

It was contended that economic conditions and considerations of opportunity cost of the milk are different for non-pool plants distributing milk regularly on routes in the marketing area than for unpriced bulk milk obtained by pool plants as a supplemental supply. No method was presented on the record, however, whereby it would be feasible to recognize such distribution through the application of a different payment and not leave open the avenues for disposal of surplus milk on routes in the marketing area from non-pool plants as described heretofore in this decision.

No compensation payments should be required on milk classified and priced as Class I under another Federal milk marketing order. The minimum prices for Class I milk under other Federal orders where St. Louis handlers might obtain supplemental supplies approximate or exceed the St. Louis Class I price, as adjusted for location of the supplying plants. Since handlers under other Federal orders must pay for such milk on a utilization basis, they would not be in a position to unload any surplus milk into the St. Louis market. If supplies should become available from other regulated markets at lesser prices, it would be necessary to reexamine the price and supply situation of the St. Louis market and in the other market, and to give further consideration to compensation payments on milk from other Federally regulated markets.

While the primary purpose of compensation payments is to remove any competitive advantage of unregulated milk rather than to insure producers an income, there nevertheless is justification for adding such money to the producer-settlement fund. It is the purpose of the order to insure that a sufficient and dependable supply of quality milk will be available for Class I needs of the market. To the extent that Class I sales are displaced through the disposition of surplus milk from unregulated sources, producers stand to lose income from the sale of milk to the market which they are expected to supply. This loss of income would mean that the prices contemplated under the order would not be realized by producers. As a result, production might suffer in which case consumers would stand to lose because of the disappearance of milk supplies from the regular and dependable sources which have assumed the obligation of seeing that the market is supplied or Class I prices would have to be increased to offset the loss of income to producers. There is no alternative source of dependable milk supplies which would cost consumers less over a period of time than the milk supplied by regular producers. Thus, there is justification for returning to producers the difference between the value of such milk at its opportunity cost, which would otherwise be its value to the seller, and the Class I price. This would tend to offset losses sustained by producers when their milk was forced into a lower priced use. No compensation payment is required when all producer milk is assigned to Class I. There is furthermore under the act no other alternative disposition of funds from compensation payments other than that herein provided.

If producers are to develop and maintain sources of supply as contemplated by the price established under the order, they must have some assurance that their milk can be marketed to the Class I outlets available. This payment is not designed, however, as a means to exclude milk from the market, or to assure any group of producers that they alone will be permitted to supply the market. Any plant which cares to do so is eligible to meet the performance standards and qualify as a pool plant fully subject to the provisions of the order, and assume the responsibility of serving the market. The payment is not designed to enable the market to maintain prices above those needed to insure an adequate supply of wholesome milk. As pointed out anyone may join the pool and if prices are higher than necessary it may be expected that added production from old and new producers would expand supplies beyond the levels required by the market. The order contains a provision which would automatically reduce prices if such increase took place. The payment would not discourage association of dependable milk supplies with the market but as pointed out heretofore might be a means to facilitate such association in the case of handlers largely in the fluid milk business on the fringes of the market.

There is the question of which handler should be obligated to make the compensation payments. In the case of city plants distributing milk in the marketing area, only one plant would be involved. In the case of supplemental milk obtained from unregulated sources by pool plants, either the buying or selling plant might be assessed. From the standpoint of the economics involved, it would make no difference, since the amount of payment would be the same in both cases. If the selling plant were to be required to make payment, then it would be essential for such plant to bill the purchaser at a rate which included the compensation payment. If the purchasing handler were to make the payment, then the purchase price will be less but the actual cost will be the same, because of the compensation payment.

From the standpoint of administration and enforcement, it would be much easier and simpler for the pool plant to make the payment. It is the pool handler with whom the market administrator regularly deals. Such handler would be expected to know and understand the terms and provisions of the order. He is the handler who would be responsible for distributing the milk in the regulated market. Whether or not a compensation payment would be required would depend upon the application of the allocation provisions of the order to the plant of the receiving handler.

The selling handler, on the other hand, would not be intimately familiar with the order. He would not be aware until later whether a compensation payment would be required, and might not even know at the time of the sale, particularly if the sale took place through a broker, whether his milk would be moved to a regulated market for disposition. If enforcement proceedings were to be required, it would be more convenient and logical to bring the case to trial in the area of the regulated market where the problem arose.

A finding has been made in this decision that compensation payments are necessary to support and preserve the integrity of the classified pricing system. It is also determined that such payments will not prohibit the marketing of milk nor limit the marketing of milk products from any production area of the United States. Such payments would be uniform except for adjustment by transportation differentials to any plant regardless of whether it is located in the marketing area or at any distance from the marketing area. The value which is assigned to unpriced milk in calculating the compensation payment is the same as the value at the class price which would be calculated under the order for priced milk at any plant, regardless of location. The rate of compensation payment is equal as among all handlers for similar transactions.

The quantity of milk and milk products which may be sold does depend in part upon the price fixed under the order for the particular class of utilization. Such influence should not be construed, however, as a limitation in the sense intended under the act. No price can be fixed without influencing, to some extent, the quantity of milk and milk products which may be sold from either regulated or unregulated sources. The compensation payment herewith provided will not discriminate against producers by areas, but will provide for equalization of com-

petitive prices by type of transaction with respect to relationship between regulated and unregulated milk.

The compensation payment herein provided has as its primary purpose the elimination of economic incentives for handlers to use unpriced milk to displace minimum priced milk in Class I sales. The rate of payment found to be appropriate for this purpose is one which recognizes general competitive conditions in the purchase and sale of regulated and unregulated milk. The same rate of payment applies to all handlers.

It is recognized, however, that general competitive conditions do not prevail in all cases. Each handler is situated differently and each individual transaction is made under different circumstances. It is not possible, however, to adjust prices or payments to individual circumstances or transactions. Such an individual approach would not be administratively or economically feasible. Compensatory payments must therefore be applied at a definite, and certain rate applicable to all handlers similarly situated. No single rate of payment can be determined, however, which would result in complete equality of cost to all handlers. Consequently, instances will undoubtedly arise which will appear to indicate that the objectives of the compensatory payment are not being achieved in particular cases. In these cases the payments required may sometimes seem harsh.

It is necessary in seeking an overall solution to problems of this nature to adopt provisions which will be reasonable and as liberal as possible, and at the same time will still guarantee the integrity of regulation. To provide inadequate payments would leave the door open to practices which would render the program ineffective. Transactions in milk are entirely at the option of handlers. They are free to complete only those transactions which are advantageous to themselves. Order provisions must recognize this fact. They must recognize, also, that the varying conditions under which milk transactions occur give rise to great complexity and some doubtful circumstances. Where marginal problems arise, they must be resolved in favor of producers under the order, otherwise the advantage may go to unregulated milk and to dealers and farmers who are not required to abide by any rules of procedure or price making.

Several exceptions were filed asserting that the proposed payments on unpriced milk are unlawfully discriminatory, not authorized by the act, contrary to its provisions and otherwise unlawful. Kass v. Brannan, 196 F. 2d 791 (CA, 1951) was cited as allegedly precluding such charges. Such exceptions are hereby overruled.

The economic and regulatory justification for such charges as an integral and necessary part of the classified pricing and pooling plan for milk primarily produced for the marketing area, and the proper level of such charges, are discussed at length earlier in this decision. The charges are designed to compensate for and neutralize, within the limits of administrative feasibility, the unfair competitive advantages which non-pool milk and milk products otherwise would have because of the minimum pricing and pooling of producer milk required by the order. In the absence of such charges, handlers who buy and use only priced pool milk would be subject to competitive disadvantage. Contrary to assertions in the exceptions, they are not penalties to preclude the sale of non-pool milk in the area. The charges should remove this unfair discrimination against pool milk and the handlers thereof. No other feasible plan was presented which would accomplish this necessary and desirable purpose.

The charges are imposed uniformly against all unpriced milk similarly situated and used, and do not discriminate against milk or milk products produced in any particular production area or areas. The provisions do not impose quantitative limits on the amounts of unpriced milk which may be sold for Class I purposes in the marketing area, nor do they prohibit such use or any other use of unpriced, non-pool milk or milk products.

Unless compensatory charges are provided, much other source milk which would not have entered the marketing area in the absence of the marketing order would be induced to enter it and be used in the high valued Class I uses solely because of the competitive advantage created for it by the pooling and pricing of producers' milk under the order. The compensatory charges counterbalance and compensate for and remove this artificial incentive favoring other source milk thus created by the order itself. Without such charges the order would tend to limit and reduce the marketing area sales of pool milk below the quantities which would have been sold absent a marketing order by favoring other source milk thus sold and utilized. The balancing compensatory charge removes such unnatural limitations on pool milk sold in the marketing area which would thus result from its class pricing under the order. The net effect is to restore insofar as possible the balance between milk from regular sources and such milk from other sources which would have existed in the absence of an order.

It was also contended in the exceptions that the compensatory charge provision is unlawful because it ignores the immediate cost to a handler of non-pool milk and milk products bought from an operator of a non-pool plant. This contention overlooks the basic fact that class prices for pool milk under the order are for raw milk as received from farmers f. o. b. the loading platform at the initial plant. The act does not provide for the establishment of resale prices and, consequently, there is no authority which would warrant price terms beyond those to be paid producers.

No valid comparison can be made of prices to farmers with the necessarily higher prices of milk or milk products at any later point in the marketing process. The prices between dealers necessarily must reflect, in addition to such initial farm level cost or price, subsequent handling costs such as those incurred in receiving, weighing, testing, cooling, hauling between plants, processing, and selling, as well as profits. Consequently, the compensatory charges do not purport to assure that the cost or price of non-pool milk or milk products, as bought and sold from dealer to dealer, will be no higher than the minimum class prices for raw unassembled pool milk f. o. b. initial plant. Such a comparison would be like comparing the price of any raw material at its source with the destination price of the finished or semi-finished product made from the raw material. A handler selling pool milk or milk products could not well sell it at levels as low as the minimum class price without loss to himself. Compensatory charges (or any other plan) at a rate which would assure a total maximum cost to a handler of only the minimum class price for non-pool milk and milk products received from a non-pool plant would clearly discriminate against pool milk and milk products.

4. *Class II price.* The Class II price for the months of March through July should be reduced so as to bring it into alignment with the current value of milk not required for Class I use in the St. Louis milkshed.

The order now provides that the Class II price shall be the higher of two alternative formula prices, namely, the average of the prices paid by 23 condenseries (5 nearby plants and the "18 Midwest Condenseries"), and a butter-powder formula based on the prices of 92-score butter at Chicago and of spray and roller process non-fat dry milk solids, f. o. b. manufacturing plants in the Chicago area.

The Class II price for the months of March through July provided by this decision is computed by multiplying the average of the daily quotations for 93-score butter at Chicago for the delivery period by 4.24, adding to this the weighted average of the spray-powder prices, f. o. b. manufacturing plants in the Chicago area, multiplied by 8.2, and subtracting 75 cents. It is concluded that the 75-cent deduction herein provided will result in a Class II price which will most nearly approximate the value of surplus producer milk in the St. Louis supply area.

Adoption of the formula herein provided will reduce the level of the Class II price, computed as a weighted average for the year, approximately 9 cents per hundredweight. This is based on comparisons of the monthly Class II prices which prevailed during 1952 and those which would have prevailed under the proposed formula. The Class IV price under the Chicago milk marketing order averaged $3.67 during 1952, compared to an average of $3.76 per hundredweight during the same period for the proposed formula.

The Class II price for the months of August through February should not be changed from that now provided in the order. During these months, the demand for milk for Class I purposes in relation to the total deliveries of producers supplying the St. Louis market is generally good. Maintaining the higher Class II price during this period will have a tendency to assure that it would not be

profitable for handlers to use or sell milk for manufacturing, and thereby encourage the disposition of producer milk for Class I uses.

It was proposed that August be included with those months in which the Class II price would be lowered. During that month, milk supplies, even though plentiful, are decreasing rapidly from the seasonal high; and the demand for milk at that time for manufactured dairy products, especially for use in frozen desserts, is comparatively favorable.

The Class II formula proposed at the hearing provided that the 92-score Chicago butter price be used instead of that for 93-score, as provided herein. Cream from graded plants in the production area is fresh sweet cream which is suitable for manufacture into 93-score butter. Moreover, cream of such quality could be used, when such outlets are available, in other Class II products which generally have a market value above that for cream which would be unsuitable for the manufacture of high quality butter.

Over the past several years, the quotations for 93-score butter at Chicago have averaged approximately one-half cent above that for 92-score butter. When the butter market is weak, there is generally a small spread between the 92- and 93-score quotations on the Chicago exchange; and conversely, when the butter market is strong, there is a tendency to a greater spread between the two prices. The formula herein provided will give producers the benefit of such increased spread and will reflect lower Class II prices to handlers when the market is weak.

Since there may be some days on which there is no quotation reported for 93-score butter at Chicago, the formula should provide that on such days the highest price reported for 92-score butter should be used.

It was proposed at the hearing that the quotations for spray powder be used as a component in computing the Class II price. Although none of the plants now under the St. Louis order has facilities for the manufacture of spray process non-fat dry milk powder, the spray powder quotation has gained acceptance and is widely used as a representative value of skim milk for manufacturing purposes. Some handlers contended that the roller powder quotations rather than spray should be used in computing the Class II price, stating that some roller powder is made in the St. Louis area while no powder is made locally by the spray process.

Manufacture of roller process powder is only one of the many Class II utilizations of the skim milk portion of producer milk in the St. Louis market. In 1952, approximately 15 percent of the disposition of Class II milk by St. Louis handlers was in the manufacture of roller powder. The Class II utilizations in the market of milk solids-not-fat are principally in products of greater value than roller powder, such as soft curd cheese and condensed skim milk. The Class II price obtained by using the spray powder quotations would give consideration to the value of skim milk in its varied utilizations in the St. Louis market.

Testimony in the hearing record indicates that the marketing of producer milk in excess of that needed to maintain the fluid milk operations of St. Louis handlers has become a serious problem. Sales of surplus milk to ungraded manufacturing plants have become more difficult, and those sales which have been made during recent years have sometimes returned less than direct costs on such milk. While milk production has increased, manufacturing facilities heretofore available to producers have disappeared. During recent years, at least 5 large manufacturing plants in the area have discontinued operations. The facilities remaining in the marketing area for manufacturing milk are limited. One of the largest handlers in the market recently discontinued his manufacturing operations; and, effective March 1, two of the country plants of this handler were purchased by one of the cooperative associations of producers. An additional plant was leased in order that this cooperative association would have facilities to take care of the milk of its members. Handlers attributed this decrease in facilities to an insufficient margin between the Class II price and market value for manufactured dairy products.

Receipts of producer milk are expanding. The trend in recent years has been for more production per farm and for increased producer numbers. Milk production in the St. Louis area is currently at a high level. For each of the three months ending January 31, 1953, production for the St. Louis market established a new record. Receipts of graded and ungraded milk in the milkshed area are being maintained at a rate 20 to 30 percent above a year ago. Producer representatives stated that a major portion of the increase in production for the market probably would continue. It will be necessary to maintain a rate of production as high or higher than that now prevailing in order to have the St. Louis market adequately supplied during the fall months of seasonally low production.

The outlook for larger supplies of Class II milk means that processing facilities will be further taxed with seasonal surpluses. Additional markets or outlets will be necessary. The seasonally lower Class II price herein provided will expedite the orderly marketing of this increased volume of surplus milk.

5. *Class II butterfat differential.* The rate of the Class II butterfat differential should be lowered. The present differential is obtained by multiplying the average of the daily quotations for 92-score butter at Chicago for the delivery period by 0.120. As provided herein, the factor of 0.120 would be replaced by 0.115.

The weighted average butterfat content of all milk received from producers supplying the St. Louis market in 1952 was 3.812 percent, and that of Class I sales for the year was 3.679 percent. This means that the average fat content of excess milk is rather high since that butterfat received from producers which is in excess of that needed for Class I purposes must be disposed of for surplus uses the year around. Evidence in the hearing record indicates that the price received by handlers from local butter manufacturing plants for such excess butterfat is significantly less than the Class II price which they are required to pay under the order. Moreover, no payment is received by the handler for the skim milk or solids-not-fat portion in the milk or cream that is transferred or diverted for butter manufacture.

For February, the Class II butterfat differential was 8 cents per point (one-tenth of one percent). This is the equivalent of 80 cents per pound of butterfat. Manufacturing plants in the area were at the same time purchasing considerable surplus fat from St. Louis handlers at 74 and 75 cents per pound of butterfat, f. o. b. the manufacturing plant. This represents a loss of 5 to 6 cents per pound of fat to the regulated plant, disregarding any handling or processing costs. Local plants purchasing ungraded milk were paying 6 and 7 cents at this time for each point of butterfat above 4 percent in milk received from their regular shippers.

Adjustment of the butterfat differential as herein provided will enable handlers to meet better the competition of dairy product substitutes and will provide some relief to handlers who are required to dispose of butterfat to manufacturing plants at the prices prevailing in the St. Louis milkshed.

6. *Class I price.* The amounts to be added to the basic formula price, in determining the Class I price, should be $1.45 for January and $1.15 for July, and the differentials for the other months of the year should remain the same as those now provided in the order.

The Class I price under the order is obtained by adding a stated amount, which varies seasonally, to the basic formula price for the preceding delivery period, and by adding or subtracting an amount determined by the demand for Class I milk in relation to the supply of milk produced for the market during a preceding 12-month period. Class I differentials now provided for in the order are: $1.45 for July through December, $1.15 for January through March, and 75 cents for April through June.

November is the month of lowest production for the St. Louis market and from that time production rises to reach its peak in May. Imports of approved milk from sources other than producers who regularly supply the St. Louis market are greatest during the months of seasonally low production. Except for the fall months, imports of approved milk are higher in January than in any of the other months. Production for January, likewise, more nearly approximates that of the fall months than it does that for February and March, with which months it is now bracketed for a $1.15 Class I differential. The supply and demand conditions prevailing in the St. Louis market in January indicate that an incentive similar to that provided for producing milk for the fall months should be made applicable to January.

It was contended at the hearing that July should be removed from the grouping of those months in which the Class I differential is $1.45. Production in July for the St. Louis market, although comparatively high, is on the decline from the seasonal peak. There are generally no imports of approved other source milk into the market in July. As discussed in issue No. 4, the Class II prices which are provided for the spring months of flush production are extended through July. It would not be consistent to maintain the Class I differential for July as high as that prevailing for the months of lowest production while at the same time providing for a seasonally adjusted lower Class II price.

It was proposed that the Class I differential over the basic formula price be increased above the 75 cents now provided in the order for the months of April, May and June. The spokesman for producers in support of this proposal recited the high cost of hay, difficulty of obtaining farm labor, and anticipated poor pasture conditions. While it is recognized that these items are significant components of the cost of production, the cost of production is not the only factor which must be considered by the Secretary in fixing order prices. Proponents of such increased Class I prices did not show that increased milk supplies would be desirable during the three flush months, and contended that an increase in differential would not affect the rate of production.

Producers at the hearing requested a lower Class II price for the months of flush production, and to raise the Class I price for these same months at this time would be in contradiction to the overall evidence presented at the hearing. The proposal to raise the Class I differential applicable for the months of April, May and June should be and hereby is denied.

Providing for a market-wide pool will require some change in the wording of the provision which adjusts Class I prices automatically on the basis of a utilization percentage. The order now provides for the exclusion of the milk of any plant which was not regularly associated with the market from the calculation of the utilization percentage. The same principle and intent should be carried out under the market-wide pool by including as part of the supply only that milk which is regularly associated with the market. This is represented by receipts of producer milk at pool plants.

Class I sales of non-Grade A milk outside the marketing area which are allocated to other source milk should not be considered as part of the demand for producer milk. For this as well as other purposes milk sold as Grade A under the approval of any health authority having jurisdiction inside or outside the marketing area would be considered as Grade A milk. Class I milk sold in the marketing area from non-pool plants should be included along with sales of Class I Grade A milk from pool plants in computing the utilization percentage.

7. *Class I butterfat differential.* The rate of the Class I butterfat differential should be lowered. The differential is now computed by multiplying the average of the daily quotations for 92-score butter at Chicago for the delivery period by 0.125. As provided herein, the factor of 0.125 would be replaced by 0.120.

As indicated in the discussion of issue No. 5, consumer demand for milk for Class I purposes is for a lower butterfat content than is obtained in the milk delivered by producers. The average butterfat content of Class I sales of fluid milk in the St. Louis market was 3.488 percent, while the test of all Class I sales, including cream, for the period was 3.679 percent. The current trend and that which has prevailed in recent years indicates an increased demand for nonfat and low fat milks for fluid consumption while demand for premium and high fat milk has declined. Sales of homogenized milk have also increased. This has meant less emphasis on cream line in the bottle and lower fat milks. Sales of butterfat in cream have decreased considerably. Both total sales and average butterfat content of cream have declined. This appears to be due to changes in consumer habits and to competition from vegetable fat and butterfat in Class II products, such as aerated cream.

The change proposed herein gives recognition to the increasing value of the non-fat solids portion of the milk for fluid purposes in relation to the butterfat portion. The lower rate of the butterfat differential should encourage the consumption of higher fat milk and also of cream, and in conjunction with the change in producer fat differential described under issue No. 8, bring production and consumption of milk more nearly in line with respect to average butterfat tests.

8. *Producer butterfat differential.* The producer butterfat differential should be revised in line with the changes being made in the Class I and Class II butterfat differentials. The producer differential is now computed by multiplying the average of the daily quotations for 92-score butter at Chicago for the delivery period by 0.120, which is the same differential as heretofore provided for Class II butterfat. As provided herein, the factor of 0.120 would be replaced by 0.115. This will result in a differential the same as provided for Class II except that provision is made elsewhere in this decision for computing the producer differential to the nearest half cent and the Class II differential to the nearest one-tenth cent.

As stated in the discussion of issues No. 5 and No. 7, the butterfat differentials for Class I and Class II milk would be revised by this attached order for the purpose of giving recognition to the changing relationships between the values of butterfat and solids-not-fat in Class I and Class II milk. Providing for a lower producer butterfat differential will have the effect of returning to producers a payment for butterfat which will be commensurate with the change in the prices paid for such butterfat by handlers, and which will therefore be representative of its actual value in the St. Louis market. This change should encourage production of milk of a butterfat content which is required for the market.

9. *Assignment of ungraded milk to Class I sales.* Ungraded milk should not be given priority on sales outside the marketing area of Class I products not labeled Grade A. The order now provides that ungraded milk received as other source milk and disposed of as Class I milk outside the marketing area should be assigned to Class I before any other assignments of Class I milk. To be eligible for such subtraction, the milk must be both received and sold as ungraded milk. Such provision could not be enforced under a market-wide pool. If it could be enforced, it would still permit a burdening of the pool with surplus milk not associated with Class I sales of producer milk and would be undesirable for that reason.

Milk loses its identity when it enters a plant. Any hope of maintaining segregation or independent handling of two kinds of milk in the same plant must rest on the good faith of the plant operator. In the absence of full cooperation from the plant operator, only a most detailed and continuous control over plant operation would insure that the identity of the milk would be assured as it moved through the plant. No program of regulation can be successful if it must depend either on complete voluntary cooperation in the presence of economic incentives or on such means of detailed enforcement as that indicated.

Both Grade A and non-Grade A milk are bottled and sold as Class I milk by a few regulated plants under the St. Louis order. Both types of milk are handled in the same building and in some cases over the same facilities. The health departments permitting such operations do not object to the use of Grade A milk for ungraded Class I sales. The operators of such plants are placed in a position where they have a strong incentive to use the best milk available to them for distribution as fluid milk. With two grades of milk available in the plant, some of which is to be bottled for fluid consumption while the rest is moved into manufacturing outlets, it would be most logical to bottle the higher quality milk first and manufacture the lower grade milk. Such a procedure would give the seller of such milk a decided advantage over other sellers of non-Grade A milk. Although such milk would not be labeled Grade A, it would nevertheless be Grade A quality since it was produced and handled under identical conditions of quality control as milk carrying the Grade A label. Although the milk would not be labeled Grade A, sales might be solicited on the basis of the quality of the milk. It is not illogical to assume that Grade A milk sold in this manner might displace not only non-Grade A milk, but Grade A milk sold outside the marketing area by regulated handlers.

The use of available Grade A milk for this purpose would not involve any extra expense or increased pool obligation to the operator. His volume of producer milk in Class I and Class II would be the same either way providing the identity of the milk were not known to the market administrator. It must be assumed that the plant operator will, and it is only logical that he should, use

his Grade A producer milk first for Class I purposes.

Even if the milk could be identified, such assignment of priority would allow a handler to throw his surplus from ungraded Class I sales onto the pool. Under a handler pool there is an early limit to the amount of surplus which may be shifted to graded producers, since the handler must maintain his own blend prices at a competitive level. As pointed out earlier, however, under a market-wide pool a handler is not forced to maintain high Class I utilization in order to sustain his blend price.

For this reason, there would be no limitation upon the amount of surplus which handlers could throw onto the pool short of that imposed by the plant performance provisions. These standards would not be effective, however, in preventing a large amount of surplus milk from an ungraded operation from being pooled.

The mechanics of throwing surplus milk from the ungraded operation onto the pool are not difficult to visualize. The rate of milk production on ungraded farms, like that on Grade A farms, experiences a wide seasonal fluctuation. This means that if a plant operator has enough milk to cover his needs while milk production is low, he will have considerable surplus when production is at a peak. Other elements of irregularity make it necessary that a certain margin of milk in excess of Class I requirements be maintained for ungraded Class I sales even when milk is shortest. The plant operator having both graded and ungraded milk in his plant could, if permitted to deduct ungraded milk from Class I sales on a priority basis, adjust his operations so that the ungraded milk received in the months of flush production would be approximately equal to ungraded Class I sales. Supplemental milk for ungraded sales might then be obtained from Grade A producers during the wintertime. The graded producers whose milk was used for such supplemental purposes during the winter would remain in the pool all summer long but the Class I sales supplied by such producers in the winter would be gone. Thus, the ungraded milk could be maintained on a virtually 100 percent Class I basis while the handler would be required to pay ungraded producers only at a competitive ungraded milk price. All surplus milk in the plant would be pooled throughout the year.

It was contended in the hearing record that deletion of the priority given ungraded milk would force some handlers out of the ungraded Class I business. This is not necessarily the case. While the proposed amendment would increase Class I sales assigned to producers in the plants of some handlers, this is not without justification. It would still be possible, nevertheless, for an operator with both grades of milk in his plant to purchase only that quantity of priced milk required for Class I Grade A sales. In this case, there would be no question concerning the disposition of the Grade A milk. Ungraded milk could be purchased and sold under this arrangement with no impact upon producers or the pool.

10. *Diversion of producer milk.* Producer milk which is diverted from a pool plant to a non-pool plant during the months of March through July should be deemed to have been received at the pool plant from which diverted, if diverted for the account of the operator of such plant. Milk so diverted by a cooperative should be deemed to have been received by the cooperative. Milk which is diverted from a pool plant to another pool plant during any month of the year, or to a non-pool plant during the months of August through February, shall not be deemed to have been received either by the plant from which diverted or by the cooperative which diverted the milk, but shall be deemed to have been received only at the plant to which the milk was physically delivered directly from producers or dairy farmers.

Giving recognition to the diversion of producer milk directly from farms to non-pool plants during the months of flush production will mean that this milk shall be considered and treated the same under the order as though it had been received at a pool plant, except for the accounting for disposition and calculation of location differentials. Such recognition will facilitate the handling and disposition of Class II milk. There are insufficient manufacturing facilities in the plants of regulated handlers to dispose of the volume of seasonal surplus necessary to the St. Louis market if adequate reserves for fall and winter needs are to be assured. The number and capacity of surplus disposal plants in the St. Louis market have been decreasing in recent years, while milk supplies have been increasing. It is necessary, therefore, that some of the excess be handled through ungraded manufacturing plants. Provision for delivery of this surplus milk directly from the farm to the manufacturing plant where it is to be processed may make for more economic handling of such milk. Producers whose milk is diverted will receive the same uniform price as other producers in the market. At the same time, the St. Louis market will be benefited by having retained producers during the months of flush production whose milk is needed to supply the Class I requirements of the market in the fall and winter months.

The period during which diversion to non-pool plants should be recognized, March through July, is the same as the period during which a seasonally lower Class II price would prevail under the terms of the attached amendment. These are the months during which the volume of seasonal surplus milk is greatest, and during which such milk may exceed the capacity of pool manufacturing plants. Recognition of diversion of producer milk to non-pool plants is not considered necessary in other months. To recognize such diversion would be inconsistent with the intent of this proposal and would be contrary to the best interests of the market, since it might have the effect of facilitating and encouraging the utilization of milk for Class II purposes when it is needed by handlers in the market for Class I uses.

Diversion of producer milk between pool plants should not be recognized under the order. Producer milk may be diverted between pool plants at any time throughout the year, but the operator of the pool plant actually receiving the milk will be considered to be the handler with respect to such milk. Under a market-wide pool, the price which a producer receives for his milk is the same, except for transportation differentials, regardless of which pool plant receives his milk, or if it is received throughout the delivery period at several different pool plants. Class prices to handlers likewise are not affected by the shifting of producers between pool plants. Prices, returns, and utilization will be the same so far as the pool and the producer are concerned as if such diversion were recognized. Recognition of diversion would make a difference in that the operator of the plant diverting the milk would be held responsible for seeing that the producers were paid the minimum prices for milk so received, and would account to the market administrator therefor.

Under the procedure herein provided, the receiving handler will account to the market administrator for the utilization of the milk and will receive or pay equalization on such milk. There would be no inter-handler transaction so far as the market administrator is concerned. If the diverting handler wants to pay producers for the milk, the receiving handler would presumably make a payment to the diverting handler based on the blend rather than on class prices. In any event, the person who is considered to be the handler under the order would be liable for payment to producers.

It is more logical that the receiving handler be held liable for paying producers since he is the one who has physical possession of the milk and has control over its manufacture and sale or distribution. Also, since he has received and handled the milk, it is obvious that he has possession or control over facilities capable of handling the milk. This may be interpreted as some measure of financial liability, and will provide added insurance that producers will be paid in accordance with the provisions of the order.

11. *Status of cooperatives as handlers.* A cooperative association of producers should be permitted to divert milk as a handler to non-pool plants during the months of flush production, provided that the association is qualified under the order to perform marketing services for its members. Such milk should be deemed to have been received by the cooperative. This will contribute to cooperatives' ability to market their members' milk and will also assist in stabilizing and maintaining the milk supply for the market.

Some handlers purchasing milk from members of cooperative associations may not be able to handle the seasonal flush of production from all their regular suppliers during the March through July period. Also, they may not be in a position to divert such milk to manufacturing plants. Rather than allow such producers as might not find a market for their milk in the months of flush

production to be dropped from the market, the cooperative should be allowed to divert such milk, if they are able to do so, and pool the sale thereof with the entire market. This will insure producers whose milk is so diverted that they will receive the market average or blend price.

No provision is made for cooperatives to divert milk in the fall and winter months. During this part of the year, it is anticipated that the receipts of producer milk will be in line with the requirements of the market for Class I milk, including the amount of reserve milk which handlers will be able to dispose of through their own plant facilities.

Supplies and prices should not be maintained at a level which will require diversion of producers to ungraded plants during the months of low production. If supplies were to reach such levels as to require diversion in the winter months, it would be a strong indication that the market was oversupplied with milk and that other adjustments were necessary.

12. *The assignment of cream transferred between regulated plants.* No change should be made in the transfer provisions of the order at this time with regard to the assignment of cream transferred between regulated plants. The handler petitioning for this change contended that he was receiving cream from other handlers which was used in the manufacture of butter, but which was assigned to Class I milk because other source milk which he had in his plant was assigned first to a Class II (butter) disposition, thereby leaving insufficient Class II milk in his plant to cover cream transferred from other handlers. At certain times graded other source milk was required to keep his Class I outlets supplied.

The handler claims that this places him at a competitive disadvantage with unregulated plants in purchasing cream from regulated plants. Part of the cream purchased from other handlers, it was contended, was not satisfactory for Class I use because of its condition and the only salvage outlet available for such cream was butter.

The provisions of the order relating to the transfer of milk between handlers and the priority given such milk on Class I utilization are designed to assure that producer milk will be utilized in and assigned to Class I so far as is possible. Other source or unregulated milk in a plant is assigned to any Class II milk available in the plant before the assignment of producer milk. When the regulated milk is transferred between pool plants, it is necessary to preserve this priority by providing that milk received from other pool plants shall not be assigned to Class II until after the other source milk has been so assigned. If this were not the case, a handler could at his own discretion, purchase milk, skim milk, or cream from other sources and from other handlers, and assign other source milk to the Class I use first, leaving approved or pool milk in Class II.

Amendments provided with this decision make the proposal to assign interhandler transfers of cream to Class II of less significance. During the summertime, when compensatory payments would be charged on other source milk allocated to Class I at a rate represented by the difference between Class I and Class II prices, such assignment would make little net difference. When the compensatory payments are at a rate based on the difference between the Class I and blend price, the handler might gain advantage through purchase of other source milk and by using it in Class I while assigning milk from producers or other regulated handlers to Class II.

Situations of the kind complained of might be avoided if, during periods when Class II utilization does not cover other source milk plus transfers of such cream, the handler would purchase supplemental milk from other plants regulated under the order. Moreover, the pool plant provisions provided in this decision will tend to make more readily available milk from approved order plants. Such milk could be assigned to Class I on an agreed upon basis, leaving the cream transfers for assignment to Class II.

The petitioner requested that consideration be given to the fact that the cream so transferred could not be used in Class I because of its quality. No administratively feasible means is recognized, however, whereby it would be possible to verify that cream so transferred could not be used for Class I purposes.

13. *Assignment of milk from other Federally regulated markets.* Proponents of this proposal suggested that milk received from handlers regulated under other Federal orders should be assigned first to Class I milk. It was contended that such milk has been priced and paid for in accordance with the Federal order program which insures producers a fair return on the milk according to its use. Assignment of milk paid for once at the Class I price to Class II allegedly results in a double payment of Class I differentials and results in an unfair cost to handlers.

To give blanket priority to such milk for assignment to Class I, as requested, would jeopardize the position of St. Louis producers in serving the St. Louis Class I market. Handlers operating under such priority assignments would be free to bring in whatever milk they felt might possibly be needed with the assurance that full assignment to Class I would be possible, and that surplus or excess would automatically be assigned to producers. Such priority of assignment is therefore denied.

It is recognized, however, that some supplemental milk may be needed when supplies are short in St. Louis. Much supplemental milk has in the past been brought in from other Federal order markets. Handlers bringing in such milk have assisted the market in keeping Class I outlets fully supplied.

When such supplemental milk is actually needed and is obtained under conditions which assure that it was paid for at Class I prices under another Federal order, a limited priority of assignment to Class I should be permitted under the order. Provision should be made, therefore, that 5 percent of producer milk may be assigned to Class II before any assignment of Federally regulated other source milk to such class. This will permit a handler whose producer milk supplies run short to bring in milk from other Federal markets and have it assigned to Class I, even though he has a small amount of surplus in his plant. Such other source milk will be assigned to any Class II milk in excess of 5 percent of producer milk to insure producers against an unjustified allocation of Class II milk.

Other source milk from unregulated handlers should be assigned to Class II milk before the 5 percent deduction. Such milk may not be purchased from producers on a classification and use basis. There is no assurance that such milk would not be used to displace producer milk in Class I to the advantage of the handler.

14. *Base and rate of the administrative assessment.* The rate of the administrative assessment should be continued at 2½ cents per hundredweight and should apply to all producer milk in pool plants. All producer milk regardless of its ultimate utilization must be reported, classified and priced, and utilization or disposition verified. Each handler should be required, therefore, to pay his pro rata share of the administration expense based on total producer milk in his plant. No reason is recognized why Class I milk should bear the expense of administering the terms and provisions of the order with respect to Class II milk.

Handlers contend that Class II milk has a lesser value because of various assessments which must be paid on such milk. This is a consideration which bears on the price for such milk, however, rather than on the rate of assessment. A lower price for Class II milk is found necessary elsewhere in this decision. Such lower price is provided in recognition of the value of such Class II milk, including as one consideration the expense of assessments levied on such milk.

Provision is made also that Class I milk disposed of in the marketing area from non-pool plants shall be assessed at the same rate as producer milk. The assessment should not be made on sales of ungraded Class I milk sold outside the marketing area from pool plants, which milk is allocated to other source milk.

The incorporation into the order of performance standards for pool plants makes it necessary that consideration be given to the costs of auditing and administration with respect to milk from plants not qualified under the order as pool plants. There are also auditing and other administrative expenses associated with milk from other sources. It is considered advisable that if milk from these various sources is assigned to Class I, it should bear its pro rata share of the administrative cost. Such assessment will tend also to equalize the competitive position of Class I milk from different sources.

No assessment should be levied against Class II milk in non-pool plants of handlers under the order since such milk is not priced and does not bear directly on the St. Louis Class I market.

15. *Miscellaneous changes.* (a) The provision of the order requiring that additional payments be on a uniform basis to all producers should be deleted. Evidence indicates that the provision has not accomplished its intended purpose. Furthermore, it has presented administrative and enforcement difficulties which seriously detract from its usefulness. It is concluded, therefore, that such provision be deleted.

(b) The provision allowing for transfer between handlers of title to milk, skim milk or cream should be deleted. Such transfer has as its purpose adjustment of uniform blend prices between different plants. Under a market-wide pool herein found necessary, uniform prices would be equalized for all regulated plants. This provision has, therefore, no further application and should be deleted.

(c) The language of the location differential provision should be adjusted to insure that milk distributed from a plant as Class I will be subject to location differentials. Class I milk physically disposed of for Class I purposes from a plant has the same value regardless of the ultimate destination of such milk. It should be clear that the order language recognizes this factor.

Location differentials should not be allowed on milk transferred between plants if such milk is not needed for Class I purposes. If it were possible under the order to transfer milk at an agreed on classification and receive credit for transportation costs on all Class I milk, it is clear that the agreed upon use would be Class I whenever that was possible. This would be true even though the milk might be transferred for manufacturing purposes. The order should not cause the pool to bear the cost of transfer of milk for manufacture by permitting location differentials on such milk. The rate of transportation differential allowed under the order will recognize that a small volume of excess milk is necessary in distributing plants to permit the operation of the Class I business.

(d) Reports and payments. Under a market-wide pool, it will be necessary for the market administrator to receive reports and payments promptly in order to calculate the blend price and make disbursement of money to handlers for the equalization of producer pay rates. The order should be adjusted, therefore, to permit disclosure of the names of handlers delinquent in such matters as soon as the delinquency occurs. Also, interest should be charged on money overdue the market administrator. The interest rate provided in the attached order is 6 percent. Such an interest rate is not a penalty but represents a fair price for the use of the money. Charging interest will avoid giving the handler any incentive to retain money temporarily for use in his business at no cost until compliance can be enforced.

(e) The area to which milk may be transferred for Class II disposition should be expanded to include the entire portion of the State of Missouri lying south of the Missouri River. The St. Louis milkshed has expanded in recent years further and further into the southern and western portions of the State of Missouri. Surplus milk arising in these areas needs some additional latitude for disposition. In view of this fact, and also because there is further disappearance of surplus disposal facilities in the plants of regulated handlers, it is considered appropriate and feasible for the market administrator to verify disposition of surplus milk in plants located in the enlarged area.

(f) Class prices should be rounded to the nearest cent. This will have the advantage of simplifying the various computations and statistics provided for under the order. It is recognized that class prices set under the St. Louis order may not be fixed with the degree of precision which requires more decimal points than this to facilitate their accuracy.

Class butterfat differentials should be carried to the nearest tenth of a cent. This is the equivalent of pricing to the nearest cent per pound of butterfat. Any further rounding of decimals might create considerable cost difference or variations to handlers from one month to the next. The producer butterfat differential should be rounded to the nearest one-half cent. This will simplify the calculation of the producer payroll. Such rounding would make only minor differences in returns to individual producers from one month to the next, and such differences would be offsetting over a period of time.

(g) Butterfat and skim milk transferred between pool plants in a form other than milk, skim milk, or cream should be subtracted out of the handler's utilization before any assignments to other source milk or producer milk. Products other than milk, skim milk, and cream are to be classified under the order in accordance with their disposition from the first plant. If such products are transferred to a second pool plant, they should be eliminated from assignments at such plant after the subtraction of shrinkage in producer milk in order to avoid any overlapping in payments to producers.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement upon which a hearing has been held.

Order of the Secretary Directing the Conduct of a Referendum, Determination of a Representative Period, and Designation of Referendum Agent

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)) it is hereby directed that a referendum be conducted among the producers (as defined in the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area) who, during the month of May 1953, which month is hereby determined to be the representative period for such referendum, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, as amended, to determine whether such producers favor the issuance of the amended order which is filed herewith.

Irving E. Sutin is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F R. 5177) such referendum to be completed on or before the 10th day from the date this decision is filed with the Hearing Clerk, United States Department of Agriculture.

Marketing agreement and order, as amended. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing agreement regulating the handling of milk in the St. Louis, Missouri, marketing area," and "Order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 10th day of July 1953.

J. EARL COKE,
Acting Secretary of Agriculture.

Order[1] as Amended, Regulating the Handling of milk in the St. Louis, Missouri, Marketing Area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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903.100 Unfair methods of competition.
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903.103 Termination of obligations.

AUTHORITY: §§ 903.0 to 903.103 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 903.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held March 2–6, 1953 at St. Louis, Missouri, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expenses of the market administrator for maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses 2½ cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk (i) received from producers, (ii) received from other sources and classified as Class I or (iii) distributed as Class I in the marketing area from a non-pool plant.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the St. Louis, Missouri, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 903.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 903.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties, pursuant to the act, of the Secretary of Agriculture.

§ 903.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

§ 903.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 903.5 *St. Louis, Missouri, marketing area.* "St. Louis, Missouri, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the City of St. Louis and the territory within St. Louis County, both in Missouri; and the territory within Scott Military Reservation, and East St. Louis, Centreville, Canteen, and Stites Townships, and the City of Belleville, all in St. Clair County, Illinois.

§ 903.6 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof during which this subpart or any amendment thereto is in effect.

§ 903.7 *Producer.* "Producer" means any person who produces milk under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, which milk is delivered from the farm to a pool plant or diverted during the months of March through July from a pool plant to a non-pool plant for the account of a handler. Milk so diverted shall be deemed to have been received at the pool plant from which diverted if diverted for the account of the operator of such plant. Milk so diverted by a cooperative shall be deemed to have been received by the cooperative. This definition shall not include a person who produces milk which is received at the plant of a handler partially exempt from the provisions of this subpart pursuant to § 903.61 with respect to milk received by such handler.

§ 903.8 *City plant.* "City plant" means a plant where milk is processed and packaged and from which milk, skim milk or cream is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores) other than city or country plants.

§ 903.9 *Country plant.* "Country plant" means a plant, except a city plant, at which milk is received from dairy farmers producing milk under a dairy farm permit issued by a health

authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, and which plant is aproved by such health authority to furnish milk to a city plant.

§ 903.10 *Pool plant.* "Pool plant" means:

(a) A city plant which disposes during the delivery period of not less than 50 percent of its receipts of producer milk and approved milk from plants qualified pursuant to paragraphs (b) or (c) of this section as Class I milk on routes to wholesale or retail outlets (including plant stores) and, from which no less than 20 percent of such receipts are distributed as Class I milk during the delivery period on routes to wholesale or retail outlets (including plant stores) located in the marketing area;

(b) A city or country plant from which no less than 50 percent of its approved milk, during the delivery period, is shipped to pool plants and assigned as reserve supply credit, pursuant to § 903.11, or distributed on routes to retail or wholesale outlets (including plant stores) located in the marketing area. *Provided,* That if a country plant ships to pool plants and has assigned as reserve supply credit, pursuant to § 903.11, at least 75 percent of its producer milk in October and November and at least 35 percent of such milk in three additional months during the months of August through January, inclusive, such plant shall, upon written application to the market administrator on or before January 31 of any year, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the terms of this proviso;

(c) Any plant which was a country plant pursuant to this subpart during the month of March 1953: *Provided,* That the operator of such plant submits written application to the market administrator to be designated as a pool plant on or before the tenth day after the effective date of this subpart: *And provided further* That the status of such plant as a pool plant shall terminate effective at the end of any month from August through January during which the milk from such plant is disposed of in such a way that it becomes impossible for the plant to establish qualification under the proviso of paragraph (b) of this section; or

(d) Any plant which was a city plant pursuant to this subpart during the month of March 1953: *Provided,* That the operator of such plant submits written application to the market administrator to be designated as a pool plant on or before the tenth day after the effective date of this subpart: *And provided further* That the status of such plant as a pool plant pursuant to this paragraph shall be limited to a period of two months from the effective date of this subpart.

§ 903.11 *Reserve supply credit.* The hundredweight of reserve supply credit which may be assigned to approved milk transferred to a pool plant shall be calculated for each delivery period as follows: Deduct from the total hundredweight of skim milk and butterfat disposed of from the transferee-plant as Class I milk on routes to retail or wholesale outlets (including plant stores) an amount calculated by multiplying the hundredweight of producer milk at such plant by 0.85. Any plus figure resulting from this calculation shall be known as reserve supply credit and shall be assigned pro rata to Class I approved milk received from country plants: *Provided,* That if the operator of the transferee plant notifies the market administrator in writing on or before the 7th day after the end of the delivery period during which the milk was received from producers of an assignment to Class I approved milk received from other plants other than that specified in this subpart, such other assignment shall be allowed.

§ 903.12 *Non-pool plant.* "A nonpool plant" is any milk distributing, manufacturing, or processing plant other than a pool plant.

§ 903.13 *Handler* "Handler" means: (a) Any person in his capacity as the operator of a city plant or a country plant; (b) a producer-handler or (c) a cooperative association qualified pursuant to § 903.88 (b) with respect to milk from producers diverted for the account of such association from a pool plant to a non-pool plant.

§ 903.14 *Producer-handler.* "Producer-handler" means any person who is a producer and who processes milk from his own farm production, distributing all or a portion of such milk within the marketing area as Class I milk, but who receives no other source milk or milk from other producers.

§ 903.15 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 903.7.

§ 903.16 *Approved milk.* "Approved milk" means any skim milk or butterfat contained in producer milk or in milk, skim milk or cream which is received from a pool plant, except the plant of a producer-handler, and which is approved by the appropriate health authority for distribution as Class I milk in the marketing area.

§ 903.17 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form except (a) approved milk, or (b) Class II non-fluid milk products which are received and disposed of without further processing or packaging.

MARKET ADMINISTRATOR

§ 903.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 903.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 903.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds received pursuant to § 903.87, the cost of his bond and of the bonds of his employees, his own compensation and all other expenses (except those incurred under § 903.88) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart and submit such books and records to examination by the Secretary as requested;

(f) Furnish such information and such verified reports as the Secretary may request;

(g) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this subpart as do not reveal confidential information;

(h) Publicly disclose to handlers and producers, at his discretion, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 903.30 to 903.33 or payments pursuant to §§ 903.80 to 903.87.

(i) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce on or before:

(1) The 6th day of each delivery period the minimum price for Class I milk pursuant to § 903.51 (a), and the Class I butterfat differential pursuant to § 903.53 (a), both for the current delivery period; and the minimum price for Class II milk pursuant to § 903.51 (b) and the Class II butterfat differential pursuant to § 903.53 (b), both for the preceding delivery period; and

(2) The 11th day after the end of each delivery period, the uniform price pur-

suant to § 903.71 and the producer butterfat differential pursuant to § 903.81.

REPORTS, RECORDS AND FACILITIES

§ 903.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each delivery period, each handler, except a producer-handler, shall report for such delivery period to the market administrator in the detail and on forms prescribed by the market administrator:.

(a) The quantities of skim milk and butterfat contained in all receipts at each of his city and country plants of (1) milk from producers, (2) skim milk or butterfat in any form from pool plants, and (3) other source milk;

(b) The quantities of skim milk and butterfat contained in milk diverted to non-pool plants;

(c) The utilization at each of his city or country plants of all skim milk and butterfat required to be reported pursuant to paragraphs (a) and (b) of this section, including a separate statement of the disposition of Class I milk outside the marketing area,

(d) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(e) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer.

§ 903.31 *Reports of payments to producers.* On or before the 20th day after the end of each delivery-period, each handler shall report to the market administrator his producer payroll for such delivery period which shall show for each producer (a) the total pounds of milk received from such producer with the average butterfat test thereof, (b) the net amount of the payment made to such producer together with the price, deductions, and charges involved, and (c) the amount and nature of any payments made pursuant to § 903.86.

§ 903.32 *Reports of transportation rates.* On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

§ 903.33 *Reports of producer-handlers.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

§ 903.34 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of all skim milk and butterfat and shall, during the usual hours of business, make available for such examination of the market administrator or his representative all records, facilities, operations, and equipment as the market administrator deems necessary to (a) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figure; (b) weigh, sample, and test for butterfat and other content all milk and milk products handled; and (c) verify payments to producers.

§ 903.35 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 903.40 *Basis of classification.* All skim milk and butterfat received by a handler at a city or country plant and which is required to be reported pursuant to § 903.30 shall be classified by the market administrator pursuant to the provisions of §§ 903.41 through 903.46.

§ 903.41 *Classes of utilization.* Subject to the conditions set forth in §§ 903.42 and 903.43, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in fluid form as milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (fresh, frozen, or sour),

(2) In milk, flavored milk, or flavored milk drinks in concentrated form (fresh or frozen) not sterilized, packaged and disposed of on routes or through plant stores for fluid consumption; and

(3) Not specifically accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat accounted for:

(1) As having been used or disposed of in any product other than those specified in Class I milk;

(2) In inventory variations of milk, skim milk, cream, or any Class I product; and

(3) In shrinkage allocated to producer milk, except milk diverted to a non-pool plant pursuant to § 903.7, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and in shrinkage allocated to receipts of other source milk: *Provided,* That shrinkage of skim milk and butterfat, respectively, shall be allocated pro rata to skim milk and butterfat in producer milk and in other source milk received from non-pool plants or from dairy farmers.

§ 903.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class.

(b) Any skim milk or butterfat classified in one class shall be reclassified if used or reused by such handler or by another handler (except a producer-handler) in another class.

§ 903.43 *Transfers.* (a) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer from a pool plant to a pool plant of another handler, except a producer-handler, shall be classified as Class I milk unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided,* That skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 903.45, and transfers of skim milk or butterfat, respectively, in excess of that so remaining shall be assigned to Class I milk.

(b) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer or diversion from a pool plant to a producer-handler shall be classified as Class I milk.

(c) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer or diversion from a pool plant to a non-pool plant shall be classified as Class I milk unless:

(1) The product is transferred or diverted in bulk form or in producer cans;

(2) The transferee-plant is located within 110 airline miles from the City Hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River and the handler claims Class II on the basis of a utilization mutually indicated in writing to the market administrator by both the handler and the operator of the transferee-plant on or before the 7th day after the end of the delivery period within which such transaction occurred;

(3) The operator of the transferee-plant maintains books and records, showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification; and

(4) Equivalent amounts of skim milk and butterfat, respectively, were actually utilized in the transferee-plant in the use claimed: *Provided,* That if less than equivalent amounts of skim milk and butterfat, respectively, were actually used in the claimed use, the difference shall be classified as Class I milk.

(d) Skim milk and butterfat disposed of in the form of milk, skim milk, or

cream, from a pool plant to retail establishments shall be classified as Class I milk: *Provided,* That skim milk and butterfat contained in milk, skim milk, or cream so disposed of in bulk to retail establishments which, under the applicable health regulations, are permitted to receive milk, skim milk, or cream other than of Grade A quality for Class II uses, shall be classified as Class II milk if so used or disposed of: *And provided further* That the market administrator is allowed to verify such use or disposition in the retail establishment.

§ 903.44 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period reports submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 903.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds of skim milk in such class allocated to producer milk received by such handler during such delivery period.

(1) Subtract from the total pounds of skim milk in Class II milk the plant shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 903.41 (b) (3)

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from pool plants of other handlers in a form other than milk, skim milk, or cream, according to its classification pursuant to § 903.41,

(3) Subtract from the pounds of skim milk remaining in Class II milk the remaining pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk in Class I;

(4) Subtract from the pounds of skim milk remaining in Class II an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in milk received from producers by 0.05, whichever is less;

(5) Subtract from the pounds of skim milk remaining in Class II the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk in Class I;

(6) Subtract the pounds of skim milk in milk, skim milk, or cream received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 903.43 (a),

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraphs (1) and (4) of this paragraph and if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with the lowest price class.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

§ 903.46 *Determination of producer milk in each class.* For each class, add the pounds of skim milk and the pounds of butterfat allocated to producer milk, pursuant to § 903.45, and determine the percentage of butterfat in each class.

MINIMUM PRICE

§ 903.50 *Basic formula price.* The basic formula price for each delivery period to be used in determining the class prices, set forth in § 903.51, shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest cent.

(a) Determine the arithmetic average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or the Department of Agriculture:

Concern and Location

Borden Co., Mount Pleasant, Mich.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Ava, Mo.
Carnation Co., Seymour, Mo.
Carnation Co., Sparta, Mich.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Indiana Condensed Milk Co., Bunker Hill, Ill.
Litchfield Creamery Co., Litchfield, Ill.
Pet Milk Co., Greenville, Ill.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed as follows: Multiply by 3.5 the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the delivery period, add 20 percent thereof, and add or subtract, as the case may be, to such sum 3½ cents for each full half cent that the weighted average of carlot prices per pound for non-fat dry milk solids, spray and roller process, respectively, for human consumption f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period by the Department, is above or below 5½ cents: *Provided,* That if such f. o. b. manufacturing plant prices of non-fat dry milk solids are not reported there shall be used for the purpose of such computation the average of the carlot prices of non-fat dry milk solids, spray and roller process for human consumption, delivered at Chicago, as reported by the Department of Agriculture during the delivery periods; and in the latter event 7½ cents shall be used in lieu of the "5½ cents."

§ 903.51 *Class prices.* Subject to the provisions of §§ 903.52 and 903.53, each handler shall pay for milk received at his pool plant(s) from producers or received by him as a cooperative at not less than the following prices per hundredweight:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding delivery period plus or minus the following amounts:

(1) Add $1.45 for the delivery periods of August through January; $1.15 for the delivery periods of February, March, and July and 75 cents for the delivery periods of April through June;

(2) If the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds 120 subtract, or if it is less than 120 add, an amount calculated by multiplying the difference between such percentage and 120 by the appropriate figure in the following schedule:

Delivery period group	Add (cents)	Subtract (cents)
February and March	2	3
April through June	0	3
July	2	3
August through January	3	3

(3) For each of the delivery period groups specified in subparagraph (2) of this paragraph, calculate a utilization percentage by dividing the total pounds of Class I milk (including the Class I milk in pool plants, except sales of non-Grade A milk outside the marketing area allocated to other source milk, plus the Class I milk sold in the marketing area from non-pool plants) for the 12-month period ending with the beginning of the month preceding each delivery period group, into the total pounds of producer milk during such 12-month period, multiplying by 100, and rounding the resultant figure to the nearest whole percentage point.

(b) *Class II milk.* For the months of August through February, the price for Class II milk shall be the basic formula price. For all other months, the Class II price shall be an amount computed as follows:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of 93-score bulk creamery butter per pound at Chicago, as reported by the Department during the delivery period: *Provided,* That if no price is reported for 93-score butter, the highest of the prices reported for

92-score butter for that day shall be used in lieu thereof;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process non-fat dry milk solids, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75 cents.

§ 903.52 *Location differentials to handlers.* (a) With respect to skim milk and butterfat contained in milk received from producers at a pool plant in Meramec or Bonhomme townships, St. Louis County, Missouri (except in the cities of Valley Park and Kirkwood) or outside the marketing area, which is classified as Class I milk, the price per hundredweight shall be reduced by the amounts set forth in the following schedule according to the airline distance from the plant where the milk is received from producers or the plant from which the milk is diverted to the City Hall in St. Louis:

Mileage	Allowance (cents)
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
For each additional ten miles or fraction thereof an additional	1

Provided, That for purposes of calculating such location differential with respect to milk transferred between pool plants, the Class II milk remaining in the transferee-plant after the subtraction pursuant to § 903.45 (a) (5) and (b) shall be assigned to approved milk from other plants in sequence according to the location differential applicable at each plant beginning with the plant having the largest differential and then to producer milk.

§ 903.53 *Butterfat differentials to handlers.* If the average butterfat test of Class I milk or Class II milk, as calculated pursuant to § 903.46, is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply by 0.120 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the previous delivery period, and round to the nearest one-tenth cent.

(b) *Class II milk.* Multiply by 0.115 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the delivery period, and round to the nearest one-tenth cent.

APPLICATION OF PROVISIONS

§ 903.60 *Producer-handlers.* Sections 903.40 through 903.46, 903.50 through 903.53, 903.70, 903.71, and 903.80 through 903.88 shall not apply to a producer-handler.

§ 903.61 *Plants subject to other Federal orders.* In the case of any plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order or marketing agreement issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the St. Louis marketing area the provisions of this order shall not apply except as follows: The operator of such plant shall, with respect to the total receipts and utilization of skim milk and butterfat, at the plant make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

§ 903.62 *Handlers operating non-pool plants.* None of the provisions from §§ 903.43 through 903.53 inclusive, or from §§ 903.70 through 903.85 inclusive, shall apply in the case of a handler in his capacity as the operator of a non-pool plant, except that such handler shall, on or before the 15th day after the end of each delivery period, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including plant stores) in the marketing area during the delivery period, by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat and location differentials;

(a) For the months of March through July the Class II price adjusted by the Class II butterfat differential; or

(b) For the months of August through February the uniform price adjusted by the Class I location differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resultant figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 903.70 *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute the value of milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 903.46 by the applicable class price, and add together the resulting amounts;

(b) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 903.45 (a) (3) and (b), (less, in the case of a plant permitted to receive and bottle non-Grade A milk, the hundredweight of non-grade A skim milk and butterfat, respectively, received at the plant and sold in non-Grade A Class I products outside the marketing area) by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat differential and the Class I location differential at the nearest plant(s) from which an equivalent amount of other source milk was received:

(1) For the months of March through July, the Class II price adjusted by the Class II butterfat differential; or

(2) For the months of August through February the uniform price adjusted by the Class I location differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resultant figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent.

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 903.45 (a) (7) and (b) by the applicable class price.

§ 903.71 *Computation of the uniform price.* For each delivery period the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content, f. o. b. marketing area, received from producers as follows:

(a) Combine into one total the values computed pursuant to § 903.70 for all handlers who made the reports prescribed in § 903.30 and who are not in default of payments pursuant to § 903.84 for the preceding delivery period;

(b) Add an amount equivalent to the total deductions made pursuant to § 903.82;

(c) Subtract if the weighted average butterfat content of milk received from producers is more than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the producer butterfat differential by the difference between 3.5 and the average butterfat content of producer milk and multiplying the resulting figure by the total hundredweight of such milk;

(d) Add an amount equivalent to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of milk received from producers; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price per hundredweight of milk testing 3.5 percent butterfat, f. o. b. the marketing area.

PAYMENTS

§ 903.80 *Payments to producers.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for the total value of milk received from such producer during such delivery period, at not less than the uniform price

per hundredweight computed pursuant to § 903.71, subject to the butterfat and location differentials computed pursuant to §§ 903.81 and 903.82: *Provided,* That if by such date such handler has not received full payment pursuant to § 903.85 from the market administrator for such delivery period, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

§ 903.81 *Butterfat differential to producers.* In making payments to each producer pursuant to § 903.80, a handler shall adjust the uniform price by adding or subtracting, as the case may be, for each one-tenth of one percent by which the average butterfat content of such producers milk is more or less than 3.5 percent, an amount equal to the butterfat differential computed pursuant to § 903.53 (b) *Provided,* That such differential shall be rounded to the nearest one-half cent.

§ 903.82 *Location differentials to producers.* In making payments to producers pursuant to § 903.80, the price per hundredweight for milk received at plants located in Meramec or Bonhomme townships, St. Louis County, Missouri (except in the cities of Valley Park or Kirkwood) or outside the marketing area, shall be reduced by the amounts set forth in the following schedule according to the airline distance from the plant where the milk is received from producers or the plant from which the milk is diverted to the City Hall in St. Louis:

Mileage zone	*Allowance (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
For each additional ten miles or fraction thereof an additional	1

§ 903.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund to be known as the "Producer-settlement Fund," into which he shall deposit all payments made by handlers pursuant to §§ 903.62, 903.84, and 903.86, and out of which he shall make payments due handlers pursuant to §§ 903.85 and 903.86.

§ 903.84 *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator the amount by which the value of milk for such handler, pursuant to § 903.70, exceeds the obligations of such handler to producers, pursuant to § 903.80: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue.

§ 903.85 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each delivery period the market administrator shall pay to each handler the amount by which the obligation of such handler to producers, pursuant to § 903.80, exceeds the value of milk for such handler calculated pursuant to § 903.70, less any unpaid balances due the market administrator from such handler pursuant to §§ 903.84, 903.86, 903.87, or 903.88: *Provided,* That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available.

§ 903.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses that money is due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall make payments to such handler of any amounts due the handler, or shall notify the handler of any amount due the market administrator or producers or cooperative associations, and such payments shall be made on or before the next date for making payments as set forth in the provisions relating to the payments which were in error.

§ 903.87 *Expense of administration.* As his pro rata share of the expense of the administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of each delivery period for such delivery period 2½ cents or such lesser amount as the Secretary may prescribe for each hundredweight of milk (a) received from producers, (b) received at a pool plant as Grade A other source milk and allocated to Class I, or (c) distributed as Class I milk in the marketing area from a non-pool plant.

§ 903.88 *Marketing services*—(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 903.80, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the delivery period and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the requirements of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler, in lieu of the deductions specified in paragraph (a) of this section, shall make the deductions from the payments made pursuant to § 903.80, which are authorized by such producers, and, on or before the 15th day after the end of each delivery period, pay over such deductions to the cooperative associations rendering such services of which such producers are members.

EFFECTIVE TIME, SUSPENSION, AND TERMINATION

§ 903.90 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 903.91.

§ 903.91 *Suspension and termination.* Any or all provisions of this subpart, or any amendment to this subpart shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 903.92 *Continuing power and duty.* (a) If, upon the suspension or termination pursuant to § 903.91, there are any obligations arising under this subpart the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate shall (1) continue in such capacity until discharged, (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this subpart.

§ 903.93 *Liquidation after suspension or termination.* Upon the suspension or termination pursuant to § 903.91, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termina-

tion. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 903.100 *Unfair methods of competition.* Each handler shall refrain from acts which constitute unfair methods of competition by way of indulging in any practices with respect to the transportation of milk for, and the supplying of goods and services to producers from whom milk is received, which tend to defeat the purpose and intent of the terms and provisions of this subpart.

§ 903.101 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstance is held invalid, the application of such provision, and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

§ 903.102 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 903.103 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligations arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information.

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the amount for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

[F. R. Doc. 53-6249; Filed, July 14, 1953; 8:51 a. m.]

[7 CFR Part 927]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

SUSPENSION OF CERTAIN PRICING PROVISIONS OF THE ORDER

Notice is given that, pursuant to the applicable provisions of the Agriculture Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) consideration is being given to the suspension of those provisions of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area which provide for the use of the Boston weighted average cream price and of published prices for spray process nonfat dry milk solids in computing the price for Class III milk.

In accordance with the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) all persons who desire to submit oral or written data, views, and arguments with respect to the foregoing proposed suspension will be given an opportunity to do so at the Commodore Hotel, New York City, beginning at 10:00 a. m., July 20, 1953.

Issued at Washington, D. C., this 10th day of July 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6250; Filed, July 14, 1953; 8:52 a. m.]

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

ADMINISTRATIVE RULES AND PROCEDURES; SURPLUS TONNAGE

Notice is hereby given that the Secretary of Agriculture is considering the approval of a proposed amendment submitted by the Prune Administrative committee and set forth hereinafter, of the amended administrative rules and procedures issued pursuant to the applicable provisions of Marketing Agreement No. 110, as amended, and Marketing Order No. 93, as amended (7 CFR, 1952 Rev., Part 993), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the eighth day after the date of publication of this notice in the FEDERAL REGISTER, except that, if said eighth day after publication should fall on a legal holiday or Saturday or Sunday, such submission will be received by the Director not later than the close of business on the next following business day. The proposed amendment is as follows:

Amend the provisions of § 993.161 (a) (1) and (2) of the amended administrative rules and procedures to read as follows:

§ 993.161 *Surplus tonnage*—(a) *Reports*—(1) *Reports on substandard prunes held separate from other prunes which are to be delivered to the committee.* Upon request of the committee, a handler shall file with the committee, within 10 calendar days thereafter, a certified report on Form PAC 4.1, "Substandard Prunes Held Separate from Other Prunes by Handler for Delivery to the Prune Administrative Committee," containing the following information as of the date specified by the committee in its request: (i) The date and name and address of the handler; (ii) the effective date of the report; and (iii) the tonnages of substandard prunes physically held separately from other prunes by the handler, ready for delivery to the committee as of that date, itemized by plants, together with the locations of the plants.

(2) *Cumulative reports on all surplus tonnage, standard and substandard.* Upon request of the committee, a handler shall file with the committee, within 10 days (exclusive of Saturdays, Sundays, and legal holidays) thereafter, a certified report on Form PAC 5.1, "Handler's Cumulative Report of Surplus Tonnage," containing the following information, as of the date specified by the committee in its request, in respect to prunes received, held, processed, dis-

posed of, or shipped by him during the crop year: (i) The date and the period of report; (ii) the name and address of the handler; (iii) the total cumulative net weight of surplus tonnage received during the crop year through the date specified by the committee in its request, segregated as to standard prunes and substandard prunes, and the total cumulative net weight of surplus prunes, segregated as to standard prunes and substandard prunes, removed from his premises, during the crop year through such specified date; (iv) the net weight of surplus standard prunes physically held by the handler, by sizes, if graded; and (v) the net weight of surplus substandard prunes physically held by the handler.

Issued at Washington, D. C., this 10th day of July 1953.

[SEAL] S. R. SMITH,
Director
Fruit and Vegetable Branch.

[F. R. Doc. 53-6252; Filed, July 14, 1953; 8:52 a. m.]

[7 CFR Part 997]

[Docket No. 205-A1]

HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.) and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held in the auditorium of the New Journal Building, 800 Southwest Front Street, Portland, Oregon, beginning at 9:30 a. m., P. s. t., August 4, 1953, with respect to proposed amendments to the marketing agreement and order (7 CFR Part 997) regulating the handling of filberts grown in Oregon and Washington.

These proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing will be held for the purpose of receiving evidence with respect to the proposed amendments which are hereinafter set forth, or appropriate modifications thereof.

The Filbert Control Board, the administrative agency for operations under the agreement and order, has proposed the following amendments and has requested a hearing thereon:

1. Amend § 997.31 of the order by deleting the present provisions and substituting therefor the following:

§ 997.31 *Selection and term of office.* Members and their respective alternates shall be selected annually by the Secretary for a term of one year beginning with the first Tuesday after the first Monday in April and shall serve until their respective successors shall be selected and shall qualify. One member and one alternate member shall be selected from nominees submitted by each of the following groups and which nominees shall be members of the respective groups or from among other qualified persons belonging to such groups:

(a) The cooperative handlers;

(b) All handlers, other than the cooperative handlers;

(c) The group of cooperative handlers or the group of other than cooperative handlers, whichever during the preceding fiscal year handled more than 50 percent of the merchantable filberts handled by all handlers;

(d) Those growers of filberts who market their filberts through cooperative handlers;

(e) All other growers of filberts;

(f) Those growers whose filberts were marketed during the preceding fiscal year through the handler group specified in paragraph (c) of this section.

The seventh member and his alternate shall be selected after the selection of the first six members as provided for in this section and after opportunity for such six members to nominate a seventh member and his alternate, who shall not be members of any of the six groups described in this section.

A grower who is a handler or an employee of a handler may not serve as, and a grower who is a handler may not vote for, a member or alternate member of the control board to represent growers who do not market their filberts through cooperative handlers.

2. Amend § 997.32 of the order by deleting the present provisions and substituting therefor the following:

§ 997.32 *Nominations for members and alternates.* Each of the six groups specified in § 997.31 may nominate one person as member and one person as alternate; and the six members first selected by the Secretary may nominate, by majority vote, one person as member and one person as alternate for that member. Nominations for each handler group shall be submitted on the basis of ballots to be mailed by the control board to all handlers in such group whose pack for the preceding fiscal year is on record with the control board. Nominations on behalf of growers who market their filberts through cooperative handlers shall be submitted on the basis of ballot cast by each cooperative handler for its grower patrons. Nominations on behalf of growers who market their filberts through other than cooperative handlers shall be submitted after ballot by such growers conducted as follows:

(a) Names of the grower candidates to accompany the ballot shall be submitted to the control board prior to February 10 of each fiscal year on petitions signed by not less than ten growers who market their filberts through other than cooperative handlers and who are of record with the control board; each grower may sign only as many petitions as there are persons to be nominated as members of the control board; ballots accompanied by the list of candidates submitted by petition or petitions, together with instructions, shall be mailed to all growers who market their filberts through other than cooperative handlers and who are of record with the control board; the qualified person or persons receiving the highest number of votes for the positions for which their names were placed on the ballot shall be nominated, except that in case of a tie the decision shall be made by lot; if the Secretary determines that this method of obtaining nominations is unsatisfactory to the growers who market their filberts through other than cooperative handlers, too difficult or costly to administer, that it does not result in the names of a sufficient number of qualified candidates being submitted with the ballot, or that it should be changed for other reasons, he may change this method of obtaining nominations after consideration of the control board's recommendations or other available pertinent information.

(b) All votes cast by cooperative handlers, handlers other than cooperative handlers, or for cooperative growers, shall be weighted according to the tonnage of merchantable filberts (computed to the nearest whole ton in case of fractions) recorded by the control board as certified for handling by the handler or for the cooperative grower group during the preceding fiscal year, and if less than one ton is recorded for any such handler or grower group, its vote shall be weighted as one vote. All votes cast by individual growers shall be given equal weight. Nominations received in the foregoing manner by the control board shall be reported to the Secretary on or before March 20 of each fiscal year, together with a certificate of all necessary data and other information deemed by the board to be pertinent or requested by the Secretary. If such nominations of any group are not submitted as hereinbefore provided to the Secretary on or before that date, the Secretary may select the representatives of that group without nomination. If nominations for the seventh member or his alternate are not submitted on or before April 15 of any year, the Secretary may select such member or alternate without nomination.

3. Amend § 997.50 by deleting the present provisions and substituting therefor the following:

§ 997.50 *Pack specifications and minimum standards*—(a) *General restrictions as to handling.* In order to effectuate the declared policy of the act, and except as otherwise provided in §§ 997.53 and 997.76, no handler shall handle any unshelled filberts except those which have been certified by the control board as merchantable filberts.

(b) *Merchantable filberts.* Unless and until modified by the Secretary, after consideration of the control board's recommendations and other available pertinent data, unshelled filberts shall be deemed to be merchantable if they meet the following requirements:

(1) As to pack specifications, such filberts shall be "U. S. No. 1, Jumbo," "U. S. No. 1, Large," "U. S. No. 1, Medium," as now defined in the United States Standards for filberts in the shell (§ 51.446 of this title), except that the portion of the tolerance provision in the

U. S. No. 1 grade, for grade requirements, other than for type and size, reading "not more than five percent shall be allowed for blanks" shall not be applicable; and

(2) As to minimum standards of quality, shall be U. S. No. 1 grade as defined in the aforementioned standards, with the aforesaid modified tolerance as to blanks, and the lower limit of medium size as defined in such United States Standards for filberts in the shell; and also

(c) *Small size filberts for export.* Unless and until modified by the Secretary, after consideration of the control board's recommendations and other available pertinent data, unshelled filberts which are not of merchantable quality may be exported pursuant to the provisions of § 997.76 if they meet the following requirements:

(1) As to size, round type filberts which will not pass through a round opening $^{40}/_{64}$ of an inch in diameter but will pass through a round opening $^{45}/_{64}$ of an inch in diameter, and long type filberts which will not pass through a round opening $^{33}/_{64}$ of an inch in diameter but will pass through a round opening $^{35}/_{64}$ of an inch in diameter; and

(2) As to quality, shall meet the requirements of the U. S. No. 1 grade with the modified tolerance for blanks as specified in paragraph (b) of this section.

(d) *Basis for modifications.* The aforementioned pack specifications, including the minimum standards of quality for unshelled filberts may be amended, or modified, at any time that it appears that such action would tend to effectuate the declared policy of the act, in which event unshelled filberts desired to be certified must meet such amended, or modified, minimum standards in order to be considered as merchantable filberts or as small size filberts for export, as the case may be.

(e) *Above parity situations.* The provisions of this subpart relating to minimum standards of quality for merchantable unshelled filberts or small size filberts for export, as the case may be, and the applicable grading and inspection requirements pertaining thereto, within the meaning of section 2 (3) of the act, and any other provisions relating to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price for filberts is in excess of the parity level specified in section 2 (1) of the act.

4. Amend § 997.51 of the order by deleting the present provisions and substituting therefor the following:

§ 997.51 *Certification of merchantable filberts and surplus small size filberts for export.* Each handler, at his own expense, shall obtain a certificate for each lot of merchantable filberts handled or to be handled by him, and for each lot of surplus merchantable filberts, and also for each lot of surplus small size filberts for export disposed of by him as agent for the control board. Said certificates shall be obtained from the Federal-State Inspection Service. All such certificates shall show in addition to such other information as the control board may specify, the identity of the handler, if for export, the country of destination, the quantity and pack of filberts in such lot, markings (if any) on the containers, including brands or labels, and that the filberts covered by such certificates conform to the pack specifications and minimum standards of quality prescribed pursuant to § 997.50 for merchantable filberts or for surplus small size filberts for export, as the case may be. All lots so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of the control board, or of the Federal-State Inspection Service.

5. Delete the center head "Surplus Control" immediately preceding § 997.60 of the order and substitute therefor the center head "Merchantable Surplus Control."

6. Amend the first sentence of § 997.62 of the order by substituting "August 20" for "August 15."

7. Amend the first sentence of § 997.64 of the order by inserting "merchantable" between "handle" and "unshelled."

8. Amend the provisions of §§ 997.60 to 997.75, both inclusive, and §§ 997.80, 997.81, 997.83, 997.91 by inserting "merchantable" before "surplus" wherever the latter word is not now preceded by the word "merchantable."

9. Add a new center head reading "Control of Small Size Filberts for Export" after § 997.75 of the order, and add a new section after said center head reading as follows:

§ 997.76 *Disposition of surplus small size filberts in export.* Sales of surplus small size filberts meeting the pack specifications and minimum standards prescribed in § 997.50 (c), for shipment or export to destinations outside the Continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone shall be made only by the control board. Any handler desiring to export any part or all of his surplus small size filberts shall deliver them to the control board to be exported, but the control board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any surplus small size filberts so delivered for export which the control board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the control board only on execution of an agreement to prevent reimportation into the United States; and, in case of export to Canada or Mexico, such surplus small size filberts shall be sold only on the basis of a delivered price, duty paid. A handler may be permitted to act as agent of the control board, upon such terms and conditions as the control board may specify, in negotiating export sales; and when so acting, shall be entitled to receive a selling commission of five percent of the export sales price, f. o. b. area of production. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose surplus small size filberts are so sold by the board.

10. Amend the provisions of § 997.18 by deleting the comma appearing after the word "inclusive" and substituting therefor a period, and by deleting the remainder of the said section.

11. Amend the first sentence of § 997.60 of the order by changing the colon before the proviso to a period and deleting said proviso; amend the second sentence of said § 997.60 by deleting the word "subsequent" now appearing between the words "fixing" and "salable."

12. Amend § 997.63 of the order by deleting the last sentence of said section.

13. Amend the second sentence of § 997.90 of the order by substituting "August 20" for "August 15" and by changing the colon before the proviso to a period and deleting said proviso.

John F. Wilkens, a filbert grower located at Huber, Oregon, proposes the following amendments:

1. Change the wording of that part of the second sentence of § 997.31 (b) which precedes the colon so that it will read as follows: "One member and one alternate member shall be selected from nominees submitted by each of the following groups and which nominees shall be members of the respective groups or from among other qualified persons belonging to such groups."

2. Add a new undesignated subparagraph between the present last undesignated subparagraph and subparagraph (6) of § 997.31 (b) which will read as follows:

Growers who do not market their filberts through cooperative handlers and who are employees of handlers may not serve as members or alternate members of the control board representing such growers. Growers who do not market their filberts through cooperative handlers and who are also handlers may not serve as or vote for a member or alternate member of the control board representing handlers other than the cooperative handlers, but such growers may serve as or vote for a member or alternate member of the control board representing growers who do not market their filberts through cooperative handlers, except that those growers belonging to this category who, during the preceding fiscal year, have handled an amount of filberts produced by other growers in excess of the amount of filberts of their own production handled by them may serve as or vote for a member or alternate member of the control board representing handlers other than the cooperative handlers, but may not serve as or vote for a member or alternate member of the control board representing the growers.

The Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, proposes the following amendments:

1. Make such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto which may result from this hearing.

2. Add a new § 997.23, reading as follows:

§ 997.23 *Part and subpart.* "Part" means the order regulating the handling of filberts grown in Oregon and Washington, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of filberts grown in Oregon and Washington shall be a "subpart" of such part.

Copies of this notice may be obtained from the Western Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, 515 Southwest Tenth Avenue, Portland 5, Oregon, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 10th day of July 1953.

[SEAL] ROY W LENNARTSON,
Assistant Administrator

[F. R. Doc. 53-6248; Filed, July 14, 1953; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1953, 90th Supp.]

INSURANCE COMPANY OF NORTH AMERICA, PHILADELPHIA, PA.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

JULY 3, 1953.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the act of Congress approved July 30, 1947, 6 U. S. C. secs. 6–13, as an acceptable surety on Federal bonds. An underwriting limitation of $26,375,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D. C.

NAME OF COMPANY, LOCATION OF PRINCIPAL EXECUTIVE OFFICE AND STATE IN WHICH INCORPORATED

PENNSYLVANIA

Insurance Company of North America, Philadelphia, Pennsylvania.

[SEAL] M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6244; Filed, July 14, 1953; 8:51 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 53717, 1597970]

COLORADO

GRAZING DISTRICT NO. 4, AMENDMENT NO. 1; PARTIALLY REVOKING DEPARTMENTAL ORDER OF SEPTEMBER 16, 1889, WITHDRAWING PUBLIC LANDS FOR EXAMINATION

JULY 9, 1953.

By virtue of the authority vested in the Secretary of the Interior by the act of June 28, 1934 as amended by the act of June 26, 1936 (48 Stat. 1269, 49 Stat. 1976, 43 U. S. C. 315 et seq.) and otherwise, and pursuant to Departmental Order No. 2583, sec. 2.22 (a) of August 16, 1950 (15 F R. 5643) as amended, it is ordered as follows:

1. Departmental Order of April 8, 1935, establishing Colorado Grazing District No. 4, is hereby revoked so far as it affects the following-described public lands in Colorado:

NEW MEXICO PRINCIPAL MERIDIAN

T. 36 N., R. 20 W.,
Sec. 2, lot 3 and SE¼NW¼,
T. 36 N., R. 17 W.,
Sec. 4, lots 2 and 3, SW¼NE¼, E½SW¼ NW¼ and SE¼NW¼.

The tracts above described, aggregating 205.04 acres, were added to the Hovenweep National Monument by Proclamations No. 2924 of April 26, 1951, and No. 2998 of November 20, 1952.

2. Upon the recommendation of the National Park Service, the order of the Secretary of the Interior of September 16, 1889, withdrawing certain public lands in Colorado from disposal pending examination to ascertain their condition and historical value, is hereby revoked as to the following-described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 36 N., R. 17 W.,
Sec. 4, N½.

The tract described contains 244.16 acres.

3. The public lands released from withdrawal by paragraph 2 of this order and which are outside the Hovenweep National Monument are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 36 N., R. 17 W.,
Sec. 4, lots 1 and 4, SE¼NE¼ and W½SW¼NW¼.

The tracts described, aggregating 102.08 acres, are primarily valuable for grazing. It is unlikely that they will be classified for any other disposition, but any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. The public lands described in paragraph 3 shall, at 10:00 a. m. on the 35th day after the date of this order, become subject to application, petition, location, and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and the 91-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. 279–284) as amended.

5. Information showing the periods during which and the conditions under which veterans and others may file applications for these lands may be obtained on request from the Manager, Land and Survey Office, Denver, Colorado.

EDWARD WOOZLEY,
Administrator

[F. R. Doc. 53-6221; Filed, July 14, 1953; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

PACIFIC ARGENTINE BRAZIL LINE, INC., ET AL.

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. Section 814.

Agreement No. 7911 between the Pacific Argentine Brazil Line, Inc. and Pope & Talbot, Inc. and American President Lines, Ltd., covers the transportation of cargo under through bills of lading from Puerto Rico to Japan, China, Hong Kong and the Philippine Islands, with transshipment at Los Angeles Harbor or San Francisco. Upon approval this agreement will supersede and cancel Agreement No. 6966 between Pope & Talbot, Inc. and American President Lines, Ltd.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: July 10, 1953.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 53-6242; Filed, July 14, 1953; 8:50 a. m.]

AMERICAN MAIL LINE, LTD., AND POPE & TALBOT, INC.

NOTICE OF CANCELLATION OF AGREEMENT

Notice is hereby given that the Board by order dated June 16, 1953, approved the cancellation of the following de-

scribed agreement pursuant to section 15 of the Shipping Act, 1916, as amended, 39 Stat. 733; 46 U. S. C. sec. 814.

Agreement No. 7218 between American Mail Line, Ltd. and Pope & Talbot, Inc., covered the transportation of cargo under through bills of lading from Japan, Korea, Formosa, Manchuria (Manchukuo) Siberia, China, Hong Kong, Thailand, Indo-China, Kwangtung, Philippine Islands, East Indies, Straits Settlements, Ceylon, or India to San Juan, Ponce or Mayaguez, Puerto Rico, with transhipment at Seattle, Portland, San Francisco or Los Angeles Harbor.

Interested parties may obtain copies of this agreement at the Regulation Office, Federal Maritime Board, Washington, D. C.

By order of the Federal Maritime Board.

Dated: July 10, 1953.

[SEAL] A. J. WILLIAMS.
Secretary.

[F. R. Doc. 53-6243; Filed, July 14, 1953; 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, and section 1 (b) of the Walsh-Healey Public Contracts Act, as amended, have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938, as amended (sec. 14, 52 Stat. 1068; 29 U. S. C. 214, as amended, 63 Stat. 910), and Part 525 of the regulations issued thereunder, as amended (29 CFR Part 525) and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR 201.1102)

The names and addresses of the sheltered workshops, wage rates and the effective and expiration dates of the certificates are set forth below. In each case, the wage rates are established at rates not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or at wage rates stipulated in the certificate, whichever is higher.

Community Workshops of Rhode Island, Inc., 79-83 North Main Street, Providence, R. I., at a wage rate of not less than 10 cents per hour for an evaluation period of 140 hours and a training period of 140 hours, and 20 cents thereafter in the Pre-Industrial Shop and Industrial Homework. Certificate is effective July 1, 1953, and expires June 30, 1954.

The Sheltered Workshop of the Boston Tuberculosis Association, 35 Tyler Street, Boston, Mass., at a wage rate of not less than 25 cents per hour. Certificate is effective July 1, 1953, and expires June 30, 1954.

Goodwill Industries of Philadelphia, Inc., 1705 West Allegheny Avenue, Philadelphia 32, Pa., at a wage rate of not less than 20 cents per hour for a training period of 120 hours and 45 cents thereafter. Certificate is effective July 1, 1953, and expires June 30, 1954.

Pennsylvania Branch Shut-In Society, 319 North Eleventh Street, Philadelphia, Pa., at a wage rate of not less than 5 cents per hour for a training period of 200 hours, 20 cents thereafter in the Shop and 10 cents thereafter in the Homework Division. Certificate is effective June 18, 1953, and expires June 30, 1954.

Georgia Factory for the Blind, Bainbridge, Ga., at a wage rate of not less than 50 cents per hour for an evaluation period of 160 hours and a training period of 160 hours, and 75 cents thereafter. Certificate is effective June 1, 1953, and expires April 30, 1954.

Goodwill Industries of Detroit, Inc., 6522 Brush Street, Detroit 2, Mich., at a wage rate of not less than 25 cents per hour for a training period of 40 hours and 50 cents thereafter. Certificate is effective June 18, 1953, and expires May 31, 1954.

Goodwill Industries of Muskegon County, Inc., 794 Pine Street, Muskegon, Mich., at a wage rate of not less than 20 cents per hour for a training period of 60 hours in the Salvage Department and a training period of 200 hours in the Sorting and Packaging Department, and 40 cents thereafter in both departments. Certificate is effective July 1, 1953, and expires June 30, 1954.

Springfield Goodwill Industries, Inc., 812-814 East Washington Street, Springfield, Ill., at a wage rate of not less than 35 cents for an evaluation period of 80 hours and 40 cents thereafter. Certificate is effective June 1, 1953, and expires July 31, 1953.

Goodwill Industries of Northern Minnesota and Western Wisconsin, 1732 West Superior Street, Duluth 6, Minn., at a wage rate of not less than 45 cents for an evaluation period of 160 hours and a training period of 40 hours and 55 cents thereafter. Certificate is effective June 1, 1953, and expires May 31, 1954.

Goodwill Industries of Arizona, 910 East Sherman, Phoenix, Ariz., at a wage rate of not less than 50 cents per hour for an evaluation period of 160 hours and 70 cents thereafter. Certificate is effective June 21, 1953, and expires June 20, 1954.

Santa Monica Bay Sheltered Workshop, Inc., 2521 Fifth Street, Santa Monica, Calif., at a wage rate of not less than 15 cents per hour for an evaluation period of 320 hours and 40 cents thereafter. Certificate is effective June 8, 1953, and expires June 7, 1954.

Goodwill Industries, Inc., 210 Chartres, New Orleans, La., at a wage rate of not less than 50 cents per hour. Certificate is effective July 1, 1953, and expires June 30, 1954.

Charlotte Workshop for the Blind, 1702 North Brevard Street, Charlotte, N. C., at a wage rate of not less than 10 cents per hour for an evaluation period of 80 hours and a training period of 80 hours and 55 cents thereafter. Certificate is effective July 1, 1953, and expires June 30, 1954.

Lions Club Workshop for the Blind, 104 South Maple Street, Durham, N. C., at a wage rate of not less than 10 cents per hour for an evaluation period of 80 hours and a training period of 80 hours and 50 cents thereafter. Certificate is effective July 1, 1953, and expires June 30, 1954.

Guilford Industries for the Blind, 920 West Lee Street, Greensboro, N. C., at a wage rate of not less than 10 cents per hour for an evaluation period of 80 hours and a training period of 80 hours, and 50 cents thereafter. Certificate is effective July 1, 1953, and expires June 30, 1954.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations, as amended. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations, as amended. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 3d day of July 1953.

JACOB I. BELLOW,
Assistant Chief of Field Operations.

[F. R. Doc. 53-6222; Filed, July 14, 1953; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10494]

QUEEN CITY TELEVISION CO., INC.

ORDER CONTINUING HEARING

In re application of Queen City Television Co., Inc. Allentown, Pennsylvania, for construction permits for new television stations; Docket No. 10494, File No. BPCT-1001.

Upon request of counsel for applicant, and upon concurrence thereto by the Commission's Broadcast Bureau, the hearing date in the above-entitled matter

is continued until 10:00 a. m. on July 20, 1953.

Dated this 7th day of July 1953.

Released: July 8, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6240; Filed, July 14, 1953; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2170]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

JULY 8, 1953.

Take notice that Texas Gas Transmission Corporation (Applicant), a Delaware corporation having its principal place of business at 416 West Third Street, Owensboro, Kentucky, filed on May 11, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities and the sale of natural gas for resale as hereinafter described.

Applicant proposes to construct and operate a metering station and appurtenant equipment on its 26-inch pipeline at a point near Middletown, Jefferson County, Kentucky, for the purpose of selling natural gas to Shelbyville Gas Company (Shelbyville) for resale in the City of Shelbyville and along the route of a lateral pipeline proposed to be constructed and operated by Shelbyville. Applicant proposes to sell a maximum daily volume of 1,058 Mcf of gas to Shelbyville, with total annual sales for the first year of operation estimated at 82,522 Mcf. Applicant estimates the cost of the facilities at $6,200, and proposes to accomplish the financing out of cash on hand.

Shelbyville Gas Company filed on June 25, 1953, in Docket No. G-2201, an application interdependent with the application herein for authority to construct and operate the lateral pipeline referred to above.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 26th day of July 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6223; Filed, July 14, 1953; 8:46 a. m.]

[Docket No. G-2190]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF APPLICATION

JULY 9, 1953.

Take notice that Montana-Dakota Utilities Co. (Applicant) a Delaware corporation, address, Minneapolis, Minnesota, filed on June 17, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of approximately 4,032 feet of 3½-inch natural-gas transmission pipeline replacing an equal amount of 1½-inch and 2-inch sales lateral pipeline near Belle Fourche, South Dakota.

Applicant proposes to construct and operate the proposed facilities to replace an existing line serving the Eastern Clay Products Company, the American Colloid Company, and a few residential customers at the terminus thereof, due to the poor condition of said line. Applicant proposes the installation of larger diameter pipe to reduce the main line pressure feeding its lateral pipeline. Applicant estimates that the proposed facilities will enable it to increase deliverability to American Colloid Company at 48 psig from approximately 540 Mcf to approximately 3,800 Mcf per day with a main line pressure of 225 psig. No new service is proposed as a result of the installation of the proposed facilities.

The estimated cost of the proposed facilities is $6,096, and the estimated net charge to retirement reserve in connection with retirement of the lines to be replaced is $2,061.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 26th day of July 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6224; Filed, July 14, 1953; 8:46 a. m.]

[Docket No. G-2201]

SHELBYVILLE GAS CO.

NOTICE OF APPLICATION

JULY 8, 1953.

Take notice that Shelbyville Gas Company (Applicant) a Delaware corporation having its principal place of business in Shelbyville, Kentucky, filed, on June 25, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities as hereinafter described.

Applicant proposes to construct and operate a 4-inch pipeline, approximately 15 miles in length, from a point of connection with the 26-inch pipeline of Texas Gas Transmission Corporation (Texas Gas) near Middletown, Kentucky, to the City of Shelbyville, Kentucky, and to purchase gas from Texas Gas for resale at retail in the City of Shelbyville, Kentucky, and along the route of its proposed pipeline. Applicant estimates its annual purchases for the first year of operation at 82,522 Mcf, with maximum daily purchases under the service agreement with Texas Gas at 1,058 Mcf.

Applicant presently renders propane-air gas service in the City of Shelbyville.

Applicant estimates the cost of the facilities, including distribution system additions, at $347,000, and proposes to accomplish the financing through sale of first mortgage bonds and preferred stock.

Texas Gas filed, on May 11, 1953, in Docket No. G-2170, an application interdependent with the application herein for authority to construct and operate a metering station for the purpose of delivery and sale of gas to Applicant herein.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 26th day of July 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6225; Filed, July 14, 1953; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2066]

NORTH AMERICAN CO. AND UNION ELECTRIC COMPANY OF MISSOURI

ORDER EXTENDING TIME FOR DISPOSITION BY UNION ELECTRIC CO. OF MISSOURI OF ITS INTEREST IN WATER PROPERTIES AND BUSINESS OF MISSOURI POWER & LIGHT CO.

JULY 9, 1953.

The North American Company ("North American") a registered holding company, and its public utility subsidiary, Union Electric Company of Missouri ("Union"), also a registered holding company, having filed a joint application-declaration and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder, with respect to the transfer by North American to Union of all of the outstanding common stock of Missouri Power & Light Company ("Missouri") then a public utility subsidiary of North American;

The Commission, by order dated December 28, 1950, having granted and permitted to become effective said application-declaration, as amended, subject, among other things, to the following condition:

(1) That within six months after the receipt by Union of the Missouri common stock, or such further time as the Commission may grant upon good cause shown, Union shall cause the disposition of its interest in Missouri's water and ice properties and businesses and Missouri's electric properties located at Clinton, Missouri; and that North American shall cause Union to take such action;

The Commission having heretofore extended until June 30, 1953, the time for compliance with the aforesaid condition;

It appearing that Missouri has disposed of its ice properties located at Mexico, Missouri, and its electric properties lo-

cated at Clinton, Missouri, and Union and Missouri, by letter dated June 26, 1953, having stated that they have been unable in the exercise of due diligence to dispose of Missouri's water properties at Excelsior Springs, Missouri, and Mexico, Missouri, and having represented that diligent efforts are being made to dispose of such properties and having requested the Commission to extend for an additional period, to December 31, 1953, the time in which to comply with the Commission's order of December 28, 1950; and

The Commission having considered such request and the reasons advanced in support thereof and deeming that the public interest and the interests of investors and consumers will not be affected adversely by granting such request;

It is ordered, That the time prescribed for compliance by Union and North American with the above-recited condition relating to the water properties and business of Missouri be, and hereby is, extended to December 31, 1953.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-6227; Filed, July 14, 1953; 8:47 a. m.]

[File No. 70-3088]

HEVI DUTY ELECTRIC CO.

ORDER PERMITTING ACQUISITION OF NON-UTILITY SECURITIES AND ISSUANCE OF BANK DEBT

JULY 9, 1953.

Hevi Duty Electric Company ("Hevi Duty") a non-utility company which is a subsidiary of The North American Company, a registered holding company, having filed an application and having designated sections 6, 7, 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") as being applicable to the proposed transactions which are summarized as follows:

Hevi Duty proposes to purchase from the holders of the issued and outstanding common stock of a non-affiliate, the Anchor Manufacturing Company ("Anchor") 15,645 shares of such stock, constituting all the issued and outstanding shares of Anchor. Anchor is a Massachusetts corporation which manufactures and sells certain electrical devices including meter-sockets, meter-cabinets, meter-troughs, load centers, transformer cabinets, service entrance equipment, service cable fittings, central station meter testing panels, and various types of special meter devices. An agreement for sale of part of the Anchor stock, subject to approval by the Commission, has already been entered into by several holders of shares of said stock. By the terms of the agreement, the remaining stockholders are enabled to join into it by executing a Letter of Agreement and Transmittal and forwarding it, together with the shares to be sold, to an Escrow Agent, for delivery upon consummation of the transaction. Hevi Duty's obligation under the contract to purchase the stock is subject, in Hevi Duty's discretion to the condition precedent that all outstanding common stock of Anchor be sold under the agreement.

According to the agreement, Hevi Duty is to pay a purchase price consisting of an initial payment of $19.25 per share and subsequent annual payments. The annual payments are to be made at the end of each of the five twelve-month periods subsequent to the sale, and for each of the first two such periods shall equal in the aggregate 50 percent of the net income of Anchor for that period, and for the subsequent three periods, 40 percent of the net income in each period. Such payments are to be made pro rata in accordance with the holdings of stock sold under the agreement. Should the annual payments aggregate less than $175,000 after the fifth payment, then payments are to be contained at the 40 percent rate for subsequent twelve-month periods until the total of $175,000 is reached.

Hevi Duty also proposes to borrow $450,000 from the Chemical Bank & Trust Company of New York City. The loan bears interest at 3½ percent per year and becomes due April 1, 1955. The loan will be made subsequent to the effectiveness of this declaration and prior to the consummation of the proposed purchase of Anchor stock. It is intended to use $301,166.25 of the loan for the cash payments of $19.25 per share on the 15,645 shares of the common stock of Anchor proposed to be purchased above. The remaining $148,833.75 of the loan is desired as additional working capital needed to implement the expected expansion of the business of Hevi Duty due to long term growth as well as to the large scale orders received in recent months.

The Company states that no regulatory commission other than this Commission has jurisdiction over the proposed transactions. Fees and expenses are estimated at $6,700 of which $6,000 are legal fees to Sullivan & Cromwell, counsel for the company.

The applicant has requested that the Commission's order herein become effective upon issuance.

Due notice having been given of the filing of the application, and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied, and observing no basis for adverse findings or for the imposition of terms and conditions other than those contained in Rule U-24, and finding that the fees and expenses to be paid are not unreasonable, and deeming it appropriate in the public interest and the interest of investors and consumers that said application be granted forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application be, and it hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-6228; Filed, July 14, 1953; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 23253]

SPIEGLE-EISEN FROM HOUSTON, TEX., TO SHREVEPORT, LA.

APPLICATION FOR RELIEF

JULY 9, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by Lee Douglass, Agent, for carriers parties to schedule listed below.

Commodities involved: Spiegle-eisen (spiegle-iron), carloads.

From: Houston, Texas.

To: Shreveport, La.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: Lee Douglass, Agent, ICC No. 802, supl. 28.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6210; Filed, July 13, 1953; 8:49 a. m.]

[4th Sec. Application 23254]

FRESH MEATS AND PACKING-HOUSE PRODUCTS FROM INDIANA, KENTUCKY, AND OHIO TO NORTHERN FLORIDA

APPLICATION FOR RELIEF

JULY 10, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spanninger's tariff I. C. C. No. 1339.

Commodities involved: Fresh meats and packing-house products, carloads.

From: Evansville, Ind., Louisville, Ky., and Cincinnati, Ohio.

To: Points in northern Florida.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commis-

sion in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6229; Filed, July 14, 1953; 8:47 a. m.]

[4th Sec. Application 28255]

PIG IRON FROM DAINGERFIELD AND LONE STAR, TEX., TO KANSAS

APPLICATION FOR RELIEF

JULY 10, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for The Atchison, Topeka and Santa Fe Railway Company and other carriers.

Commodities involved: Pig iron, carloads.

From: Daingerfield and Lone Star, Tex.

To: Cherryvale, Coffeyville, Hutchinson, Independence, Iola, Ottawa, Wichita, and Winfield, Kans.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 3960, supp. 28.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6230; Filed, July 14, 1953; 8:48 a. m.]

[4th Sec. Application 28256]

MOTOR-RAIL RATES BETWEEN CERTAIN POINTS IN THE EAST

APPLICATION FOR RELIEF

JULY 10, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by The New York, New Haven and Hartford Railroad Company and A. E. A. Company, Inc.

Commodities involved: Semi-trailers, loaded or empty, on flat cars.

Between: Boston, Mass., on the one hand, and Harlem River, N. Y., Elizabeth and Edgewater, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6231; Filed, July 14, 1953; 8:48 a. m.]